

Calendar No. 361

104TH CONGRESS
2D Session

S. 1664

[Report No. 104-249]

A BILL

To amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

APRIL 10, 1996

Reported without amendment

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IN THE SENATE OF THE UNITED STATES

APRIL 10, 1996

Mr. HATCH, from the Committee on the Judiciary, reported under the authority of the Senate of March 29, 1996 the following original bill; which was read twice and placed on the calendar

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Reported by Mr. HATCH, without amendment

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law and procedures; to reduce the use of welfare by aliens; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES IN ACT.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Immigration Control and Financial Responsibility Act of
 6 1996”.

7 (b) REFERENCES IN ACT.—Except as otherwise spe-
 8 cifically provided in this Act, whenever in this Act an
 9 amendment or repeal is expressed as an amendment to
 10 or repeal of a provision, the reference shall be deemed to
 11 be made to the Immigration and Nationality Act (8 U.S.C.
 12 1101 et seq.).

13 **SEC. 2. TABLE OF CONTENTS.**

14 The table of contents for this Act is as follows:

Sec. 1. Short title; references in Act.
 Sec. 2. Table of contents.

TITLE I—IMMIGRATION CONTROL

Subtitle A—Law Enforcement

Part 1—Additional Enforcement Personnel and Facilities

Sec. 101. Border Patrol agents.
 Sec. 102. Investigators.
 Sec. 103. Land border inspectors.
 Sec. 104. Investigators of visa overstayers.
 Sec. 105. Increased personnel levels for the Labor Department.
 Sec. 106. Increase in INS detention facilities.
 Sec. 107. Hiring and training standards.
 Sec. 108. Construction of fencing and road improvements in the border area
 near San Diego, California.

Part 2—Verification of Eligibility to Work and to Receive Public Assistance

SUBPART A—DEVELOPMENT OF NEW VERIFICATION SYSTEM

- Sec. 111. Establishment of new system.
- Sec. 112. Demonstration projects.
- Sec. 113. Comptroller General monitoring and reports.
- Sec. 114. General nonpreemption of existing rights and remedies.
- Sec. 115. Definitions.

SUBPART B—STRENGTHENING EXISTING VERIFICATION PROCEDURES

- Sec. 116. Changes in list of acceptable employment-verification documents.
- Sec. 117. Treatment of certain documentary practices as unfair immigration-related employment practices.
- Sec. 118. Improvements in identification-related documents.
- Sec. 119. Enhanced civil penalties if labor standards violations are present.
- Sec. 120. Increased number of Assistant United States Attorneys to prosecute cases of unlawful employment of aliens or document fraud.
- Sec. 120A. Subpoena authority for cases of unlawful employment of aliens or document fraud.
- Sec. 120B. Task force to improve public education regarding unlawful employment of aliens and unfair immigration-related employment practices.
- Sec. 120C. Nationwide fingerprinting of apprehended aliens.
- Sec. 120D. Application of verification procedures to State agency referrals of employment.
- Sec. 120E. Retention of verification form.

Part 3—Alien Smuggling; Document Fraud

- Sec. 121. Wiretap authority for investigations of alien smuggling or document fraud.
- Sec. 122. Amendments to RICO relating to alien smuggling and document fraud offenses.
- Sec. 123. Increased criminal penalties for alien smuggling.
- Sec. 124. Admissibility of videotaped witness testimony.
- Sec. 125. Expanded forfeiture for alien smuggling and document fraud.
- Sec. 126. Criminal forfeiture for alien smuggling or document fraud.
- Sec. 127. Increased criminal penalties for fraudulent use of government-issued documents.
- Sec. 128. Criminal penalty for false statement in a document required under the immigration laws or knowingly presenting document which fails to contain reasonable basis in law or fact.
- Sec. 129. New criminal penalties for failure to disclose role as preparer of false application for asylum or for preparing certain post-conviction applications.
- Sec. 130. New document fraud offenses; new civil penalties for document fraud.
- Sec. 131. New exclusion for document fraud or for failure to present documents.
- Sec. 132. Limitation on withholding of deportation and other benefits for aliens excludable for document fraud or failing to present documents, or excludable aliens apprehended at sea.
- Sec. 133. Penalties for involuntary servitude.
- Sec. 134. Exclusion relating to material support to terrorists.

Part 4—Exclusion and Deportation

- Sec. 141. Special exclusion procedure.

- Sec. 142. Streamlining judicial review of orders of exclusion or deportation.
- Sec. 143. Civil penalties for failure to depart.
- Sec. 144. Conduct of proceedings by electronic means.
- Sec. 145. Subpoena authority.
- Sec. 146. Language of deportation notice; right to counsel.
- Sec. 147. Addition of nonimmigrant visas to types of visa denied for countries refusing to accept deported aliens.
- Sec. 148. Authorization of special fund for costs of deportation.
- Sec. 149. Pilot program to increase efficiency in removal of detained aliens.
- Sec. 150. Limitations on relief from exclusion and deportation.
- Sec. 151. Alien stowaways.
- Sec. 152. Pilot program on interior repatriation and other methods to multiple unlawful entries.
- Sec. 153. Pilot program on use of closed military bases for the detention of excludable or deportable aliens.
- Sec. 154. Requirement for immunization against vaccine-preventable diseases for aliens seeking permanent residency.
- Sec. 155. Certification requirements for foreign health-care workers.
- Sec. 156. Increased bar to reentry for aliens previously removed.
- Sec. 157. Elimination of consulate shopping for visa overstays.
- Sec. 158. Incitement as a basis for exclusion from the United States.
- Sec. 159. Conforming amendment to withholding of deportation.

Part 5—Criminal Aliens

- Sec. 161. Amended definition of aggravated felony.
- Sec. 162. Ineligibility of aggravated felons for adjustment of status.
- Sec. 163. Expeditious deportation creates no enforceable right for aggravated felons.
- Sec. 164. Custody of aliens convicted of aggravated felonies.
- Sec. 165. Judicial deportation.
- Sec. 166. Stipulated exclusion or deportation.
- Sec. 167. Deportation as a condition of probation.
- Sec. 168. Annual report on criminal aliens.
- Sec. 169. Undercover investigation authority.
- Sec. 170. Prisoner transfer treaties.
- Sec. 170A. Prisoner transfer treaties study.
- Sec. 170B. Using alien for immoral purposes, filing requirement.
- Sec. 170C. Technical corrections to Violent Crime Control Act and Technical Corrections Act.
- Sec. 170D. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.

Part 6—Miscellaneous

- Sec. 171. Immigration emergency provisions.
- Sec. 172. Authority to determine visa processing procedures.
- Sec. 173. Joint study of automated data collection.
- Sec. 174. Automated entry-exit control system.
- Sec. 175. Use of legalization and special agricultural worker information.
- Sec. 176. Rescission of lawful permanent resident status.
- Sec. 177. Communication between Federal, State, and local government agencies, and the Immigration and Naturalization Service.
- Sec. 178. Authority to use volunteers.
- Sec. 179. Authority to acquire Federal equipment for border.
- Sec. 180. Limitation on legalization litigation.

- Sec. 181. Limitation on adjustment of status.
- Sec. 182. Report on detention space.
- Sec. 183. Compensation of special inquiry officers.
- Sec. 184. Acceptance of State services to carry out immigration enforcement.
- Sec. 185. Alien witness cooperation.

Subtitle B—Other Control Measures

Part 1—Parole Authority

- Sec. 191. Usable only on a case-by-case basis for humanitarian reasons or significant public benefit.
- Sec. 192. Inclusion in worldwide level of family-sponsored immigrants.

Part 2—Asylum

- Sec. 193. Limitations on asylum applications by aliens using documents fraudulently or by excludable aliens apprehended at sea; use of special exclusion procedures.
- Sec. 194. Time limitation on asylum claims.
- Sec. 195. Limitation on work authorization for asylum applicants.
- Sec. 196. Increased resources for reducing asylum application backlogs.

Part 3—Cuban Adjustment Act

- Sec. 197. Repeal and exception.

TITLE II—FINANCIAL RESPONSIBILITY

Subtitle A—Receipt of Certain Government Benefits

- Sec. 201. Ineligibility of excludable, deportable, and nonimmigrant aliens.
- Sec. 202. Definition of “public charge” for purposes of deportation.
- Sec. 203. Requirements for sponsor’s affidavit of support.
- Sec. 204. Attribution of sponsor’s income and resources to family-sponsored immigrants.
- Sec. 205. Verification of student eligibility for postsecondary Federal student financial assistance.
- Sec. 206. Authority of States and localities to limit assistance to aliens and to distinguish among classes of aliens in providing general public assistance.
- Sec. 207. Earned income tax credit denied to individuals not citizens or lawful permanent residents.
- Sec. 208. Increased maximum criminal penalties for forging or counterfeiting seal of a Federal department or agency to facilitate benefit fraud by an unlawful alien.
- Sec. 209. State option under the medicaid program to place anti-fraud investigators in hospitals.
- Sec. 210. Computation of targeted assistance.

Subtitle B—Miscellaneous Provisions

- Sec. 211. Reimbursement of States and localities for emergency medical assistance for certain illegal aliens.
- Sec. 212. Treatment of expenses subject to emergency medical services exception.
- Sec. 213. Pilot programs.

Sec. 221. Effective dates.

1 **Subtitle A—Law Enforcement**

2 **PART 1—ADDITIONAL ENFORCEMENT**

3 **PERSONNEL AND FACILITIES**

4 **SEC. 101. BORDER PATROL AGENTS.**

5 (a) BORDER PATROL AGENTS.—The Attorney Gen-
6 eral, in fiscal year 1996 shall increase by no less than 700,
7 and in each of fiscal years 1997, 1998, 1999, and 2000,
8 shall increase by no less than 1,000, the number of posi-
9 tions for full-time, active-duty Border Patrol agents within
10 the Immigration and Naturalization Service above the
11 number of such positions for which funds were allotted
12 for the preceding fiscal year.

13 (b) BORDER PATROL SUPPORT PERSONNEL.—The
14 Attorney General, in each of fiscal years 1996, 1997,
15 1998, 1999, and 2000, may increase by not more than
16 300 the number of positions for personnel in support of
17 Border Patrol agents above the number of such positions
18 for which funds were allotted for the preceding fiscal year.

19 **SEC. 102. INVESTIGATORS.**

20 (a) AUTHORIZATION.—There are authorized to be ap-
21 propriated to the Department of Justice such funds as
22 may be necessary to enable the Commissioner of the Immi-
23 gration and Naturalization Service to increase the number
24 of investigators and support personnel to investigate po-

1 tential violations of sections 274 and 274A of the Immi-
2 gration and Nationality Act (8 U.S.C. 1324 and 1324a)
3 by a number equivalent to 300 full-time active-duty inves-
4 tigators in each of fiscal years 1996, 1997, and 1998.

5 (b) LIMITATION ON OVERTIME.—None of the funds
6 made available to the Immigration and Naturalization
7 Service under this section shall be available for adminis-
8 trative expenses to pay any employee overtime pay in an
9 amount in excess of \$25,000 for any fiscal year.

10 **SEC. 103. LAND BORDER INSPECTORS.**

11 In order to eliminate undue delay in the thorough in-
12 spection of persons and vehicles lawfully attempting to
13 enter the United States, the Attorney General and the
14 Secretary of the Treasury shall increase, by approximately
15 equal numbers in each of fiscal years 1996 and 1997, the
16 number of full-time land border inspectors assigned to ac-
17 tive duty by the Immigration and Naturalization Service
18 and the United States Customs Service to a level adequate
19 to assure full staffing during peak crossing hours of all
20 border crossing lanes currently in use, under construction,
21 or whose construction has been authorized by Congress,
22 except such low-use lanes as the Attorney General may
23 designate.

1 **SEC. 104. INVESTIGATORS OF VISA OVERSTAYERS.**

2 There are authorized to be appropriated to the De-
3 partment of Justice such funds as may be necessary to
4 enable the Commissioner of the Immigration and Natu-
5 ralization Service to increase the number of investigators
6 and support personnel to investigate visa overstayers by
7 a number equivalent to 300 full-time active-duty investiga-
8 tors in fiscal year 1996.

9 **SEC. 105. INCREASED PERSONNEL LEVELS FOR THE LABOR**
10 **DEPARTMENT.**

11 (a) INVESTIGATORS.—The Secretary of Labor, in
12 consultation with the Attorney General, is authorized to
13 hire in the Wage and Hour Division of the Department
14 of Labor for fiscal years 1996 and 1997 not more than
15 350 investigators and staff to enforce existing legal sanc-
16 tions against employers who violate current Federal wage
17 and hour laws.

18 (b) ASSIGNMENT OF ADDITIONAL PERSONNEL.—In-
19 dividuals employed to fill the additional positions described
20 in subsection (a) shall be assigned to investigate violations
21 of wage and hour laws in areas where the Attorney Gen-
22 eral has notified the Secretary of Labor that there are
23 high concentrations of aliens present in the United States
24 in violation of law.

25 (c) PREFERENCE FOR BILINGUAL WAGE AND HOUR
26 INSPECTORS.—In hiring new wage and hour inspectors

1 pursuant to this section, the Secretary of Labor shall give
2 priority to the employment of multilingual candidates who
3 are proficient in both English and such other language
4 or languages as may be spoken in the region in which such
5 inspectors are likely to be deployed.

6 **SEC. 106. INCREASE IN INS DETENTION FACILITIES.**

7 Subject to the availability of appropriations, the At-
8 torney General shall provide for an increase in the deten-
9 tion facilities of the Immigration and Naturalization Serv-
10 ice to at least 9,000 beds before the end of fiscal year
11 1997.

12 **SEC. 107. HIRING AND TRAINING STANDARDS.**

13 (a) REVIEW OF HIRING STANDARDS.—Within 60
14 days of the enactment of this title, the Attorney General
15 shall review all prescreening and hiring standards to be
16 utilized by the Immigration and Naturalization Service to
17 increase personnel pursuant to this title and, where nec-
18 essary, revise those standards to ensure that they are con-
19 sistent with relevant standards of professionalism.

20 (b) CERTIFICATION.—At the conclusion of each of
21 the fiscal years 1996, 1997, 1998, 1999, and 2000, the
22 Attorney General shall certify in writing to the Congress
23 that all personnel hired pursuant to this title for the pre-
24 vious fiscal year were hired pursuant to the appropriate
25 standards.

1 (c) REVIEW OF TRAINING STANDARDS.—(1) Within
 2 180 days of the date of the enactment of this Act, the
 3 Attorney General shall review the sufficiency of all train-
 4 ing standards to be utilized by the Immigration and Natu-
 5 ralization Service in training all personnel hired pursuant
 6 to this title.

7 (2)(A) The Attorney General shall submit a report
 8 to the Congress on the results of the review conducted
 9 under paragraph (1), including—

10 (i) a description of the status of ongoing efforts
 11 to update and improve training throughout the Im-
 12 migration and Naturalization Service, and

13 (ii) a statement of a timeframe for the comple-
 14 tion of those efforts.

15 (B) In addition, the report shall disclose those areas
 16 of training that the Attorney General determines require
 17 additional or ongoing review in the future.

18 **SEC. 108. CONSTRUCTION OF FENCING AND ROAD**
 19 **IMPROVEMENTS IN THE BORDER AREA NEAR**
 20 **SAN DIEGO, CALIFORNIA.**

21 (a) IN GENERAL.—The Attorney General shall pro-
 22 vide for the construction along the 14 miles of the inter-
 23 national land border between the United States and Mex-
 24 ico, starting at the Pacific Ocean and extending eastward,

1 of second and third fences, in addition to the existing rein-
 2 forced fence, and for roads between the fences.

3 (b) PROMPT ACQUISITION OF NECESSARY EASE-
 4 MENTS.—The Attorney General shall promptly acquire
 5 such easements as may be necessary to carry out this sub-
 6 section and shall commence construction of fences imme-
 7 diately following such acquisition (or conclusion of por-
 8 tions thereof).

9 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 10 are authorized to be appropriated to carry out this section
 11 not to exceed \$12,000,000. Amounts appropriated under
 12 this subsection are authorized to remain available until ex-
 13 pended.

14 **PART 2—VERIFICATION OF ELIGIBILITY TO**
 15 **WORK AND TO RECEIVE PUBLIC ASSISTANCE**
 16 **Subpart A—Development of New Verification System**
 17 **SEC. 111. ESTABLISHMENT OF NEW SYSTEM.**

18 (a) IN GENERAL.—(1) Not later than three years
 19 after the date of enactment of this Act or, within one year
 20 after the end of the last renewed or additional demonstra-
 21 tion project (if any) conducted pursuant to the exception
 22 in section 112(a)(4), whichever is later, the President
 23 shall—

24 (A) develop and recommend to the Congress a
 25 plan for the establishment of a data system or alter-

1 native system (in this part referred to as the “sys-
2 tem”), subject to subsections (b) and (c), to verify
3 eligibility for employment in the United States, and
4 immigration status in the United States for pur-
5 poses of eligibility for benefits under public assist-
6 ance programs (as defined in section 201(f)(3) or
7 government benefits described in section 201(f)(4));

8 (B) submit to the Congress a report setting
9 forth—

10 (i) a description of such recommended
11 plan;

12 (ii) data on and analyses of the alter-
13 natives considered in developing the plan de-
14 scribed in subparagraph (A), including analyses
15 of data from the demonstration projects con-
16 ducted pursuant to section 112; and

17 (iii) data on and analysis of the system de-
18 scribed in subparagraph (A), including esti-
19 mates of—

20 (I) the proposed use of the system, on
21 an industry-sector by industry-sector basis;

22 (II) the public assistance programs
23 and government benefits for which use of
24 the system is cost-effective and otherwise
25 appropriate;

1 (III) the cost of the system;

2 (IV) the financial and administrative
3 cost to employers;

4 (V) the reduction of undocumented
5 workers in the United States labor force
6 resulting from the system;

7 (VI) any unlawful discrimination
8 caused by or facilitated by use of the
9 system;

10 (VII) any privacy intrusions caused by
11 misuse or abuse of system;

12 (VIII) the accuracy rate of the sys-
13 tem; and

14 (IX) the overall costs and benefits
15 that would result from implementation of
16 the system.

17 (2) The plan described in paragraph (1) shall take
18 effect on the date of enactment of a bill or joint resolution
19 approving the plan.

20 (b) OBJECTIVES.—The plan described in subsection
21 (a)(1) shall have the following objectives:

22 (1) To substantially reduce illegal immigration
23 and unauthorized employment of aliens.

1 (2) To increase employer compliance, especially
2 in industry sectors known to employ undocumented
3 workers, with laws governing employment of aliens.

4 (3) To protect individuals from national origin
5 or citizenship-based unlawful discrimination and
6 from loss of privacy caused by use, misuse, or abuse
7 of personal information.

8 (4) To minimize the burden on business of ver-
9 ification of eligibility for employment in the United
10 States, including the cost of the system to
11 employers.

12 (5) To ensure that those who are ineligible for
13 public assistance or other government benefits are
14 denied or terminated, and that those eligible for
15 public assistance or other government benefits
16 shall—

17 (A) be provided a reasonable opportunity
18 to submit evidence indicating a satisfactory im-
19 migration status; and

20 (B) not have eligibility for public assist-
21 ance or other government benefits denied, re-
22 duced, terminated, or unreasonably delayed on
23 the basis of the individual's immigration status
24 until such a reasonable opportunity has been
25 provided.

1 (c) SYSTEM REQUIREMENTS.—(1) A verification sys-
2 tem may not be implemented under this section unless the
3 system meets the following requirements:

4 (A) The system must be capable of reliably de-
5 termining with respect to an individual whether—

6 (i) the person with the identity claimed by
7 the individual is authorized to work in the Unit-
8 ed States or has the immigration status being
9 claimed; and

10 (ii) the individual is claiming the identity
11 of another person.

12 (B) Any document (other than a document used
13 under section 274A of the Immigration and Nation-
14 ality Act) required by the system must be presented
15 to or examined by either an employer or an adminis-
16 trator of public assistance or other government bene-
17 fits, as the case may be, and—

18 (i) must be in a form that is resistant to
19 counterfeiting and to tampering; and

20 (ii) must not be required by any Govern-
21 ment entity or agency as a national identifica-
22 tion card or to be carried or presented except—

23 (I) to verify eligibility for employment
24 in the United States or immigration status
25 in the United States for purposes of eligi-

1 bility for benefits under public assistance
2 programs (as defined in section 201(f)(3)
3 or government benefits described in section
4 201(f)(4));

5 (II) to enforce the Immigration and
6 Nationality Act or sections 911, 1001,
7 1028, 1542, 1546, or 1621 of title 18,
8 United States Code; or

9 (III) if the document was designed for
10 another purposes (such as a license to
11 drive a motor vehicle, a certificate of birth,
12 or a social security account number card
13 issued by the Administration), as required
14 under law for such other purpose.

15 (C) The system must not be used for law en-
16 forcement purposes other than the purposes de-
17 scribed in subparagraph (B).

18 (D) The system must ensure that information
19 is complete, accurate, verifiable, and timely. Correc-
20 tions or additions to the system records of an indi-
21 vidual provided by the individual, the Administra-
22 tion, or the Service, or other relevant Federal agen-
23 cy, must be checked for accuracy, processed, and en-
24 tered into the system within 10 business days after

1 the agency's acquisition of the correction or addi-
2 tional information.

3 (E)(i) Any personal information obtained in
4 connection with a demonstration project under sec-
5 tion 112 must not be made available to Government
6 agencies, employers, or other persons except to the
7 extent necessary—

8 (I) to verify, by an individual who is au-
9 thorized to conduct the employment verification
10 process, that an employee is not an unauthor-
11 ized alien (as defined in section 274A(h)(3) of
12 the Immigration and Nationality Act (8 U.S.C.
13 1324a(h)(3));

14 (II) to take other action required to carry
15 out section 112;

16 (III) to enforce the Immigration and Na-
17 tionality Act or section 911, 1001, 1028, 1542,
18 1546, or 1621 of title 18, United States Code;
19 or

20 (IV) to verify the individual's immigration
21 status for purposes of determining eligibility for
22 Federal benefits under public assistance pro-
23 grams (defined in section 201(f)(3) or govern-
24 ment benefits described in section 201(f)(4)).

1 (ii) In order to ensure the integrity, confiden-
2 tiality, and security of system information, the sys-
3 tem and those who use the system must maintain
4 appropriate administrative, technical, and physical
5 safeguards, such as—

6 (I) safeguards to prevent unauthorized dis-
7 closure of personal information, including pass-
8 words, cryptography, and other technologies;

9 (II) audit trails to monitor system use; or

10 (III) procedures giving an individual the
11 right to request records containing personal in-
12 formation about the individual held by agencies
13 and used in the system, for the purpose of ex-
14 amination, copying, correction, or amendment,
15 and a method that ensures notice to individuals
16 of these procedures.

17 (F) A verification that a person is eligible for
18 employment in the United States may not be with-
19 held or revoked under the system for any reasons
20 other than a determination pursuant to section
21 274A of the Immigration and Nationality Act.

22 (G) The system must be capable of accurately
23 verifying electronically within 5 business days,
24 whether a person has the required immigration sta-
25 tus in the United States and is legally authorized for

1 employment in the United States in a substantial
2 percentage of cases (with the objective of not less
3 than 99 percent).

4 (H) There must be reasonable safeguards
5 against the system's resulting in unlawful discrimi-
6 natory practices based on national origin or citizen-
7 ship status, including—

8 (i) the selective or unauthorized use of the
9 system to verify eligibility;

10 (ii) the use of the system prior to an offer
11 of employment;

12 (iii) the exclusion of certain individuals
13 from consideration for employment as a result
14 of a perceived likelihood that additional verifica-
15 tion will be required, beyond what is required
16 for most job applicants; or

17 (iv) denial reduction, termination, or un-
18 reasonable delay of public assistance to an indi-
19 vidual as a result of the perceived likelihood
20 that such additional verification will be
21 required.

22 (2) As used in this subsection, the term “business
23 day” means any day other than Saturday, Sunday, or any
24 day on which the appropriate Federal agency is closed.

1 (d) REMEDIES AND PENALTIES FOR UNLAWFUL DIS-
2 CLOSURE.—

3 (1) CIVIL REMEDIES.—

4 (A) RIGHT OF INFORMATIONAL PRIVACY.—

5 The Congress declares that any person who
6 provides to an employer the information re-
7 quired by this section or section 274A of the
8 Immigration and Nationality Act (8 U.S.C.
9 1324a) has a privacy expectation that the infor-
10 mation will only be used for compliance with
11 this Act or other applicable Federal, State, or
12 local law.

13 (B) CIVIL ACTIONS.—A employer, or other
14 person or entity, who knowingly and willfully
15 discloses the information that an employee is
16 required to provide by this section or section
17 274A of the Immigration and Nationality Act
18 (8 U.S.C. 1324a) for any purpose not author-
19 ized by this Act or other applicable Federal,
20 State, or local law shall be liable to the em-
21 ployee for actual damages. An action may be
22 brought in any Federal, State, or local court
23 having jurisdiction over the matter.

24 (2) CRIMINAL PENALTIES.—Any employer, or
25 other person or entity, who willfully and knowingly

1 obtains, uses, or discloses information required pur-
2 suant to this section or section 274A of the Immi-
3 gration and Nationality Act (8 U.S.C. 1324a) for
4 any purpose not authorized by this Act or other ap-
5 plicable Federal, State, or local law shall be found
6 guilty of a misdemeanor and fined not more than
7 \$5,000.

8 (3) PRIVACY ACT.—

9 (A) IN GENERAL.—Any person who is a
10 United States citizen, United States national,
11 lawful permanent resident, or other employ-
12 ment-authorized alien, and who is subject to
13 verification of work authorization or lawful
14 presence in the United States for purposes of
15 benefits eligibility under this section or section
16 112, shall be considered an individual under
17 section 552(a)(2) of title 5, United States Code,
18 with respect to records covered by this section.

19 (B) DEFINITION.—For purposes of this
20 paragraph, the term “record” means an item,
21 collection, or grouping of information about an
22 individual which—

23 (i) is created, maintained, or used by
24 a Federal agency for the purpose of deter-
25 mining—

1 (I) the individual's authorization
2 to work; or

3 (II) immigration status in the
4 United States for purposes of eligi-
5 bility to receive Federal, State or local
6 benefits in the United States; and

7 (ii) contains the individuals's name or
8 identifying number, symbol, or any other
9 identifier assigned to the individual.

10 (e) EMPLOYER SAFEGUARDS.—An employer shall not
11 be liable for any penalty under section 274A of the Immi-
12 gration and Nationality Act for employing an unauthor-
13 ized alien, if—

14 (1) the alien appeared throughout the term of
15 employment to be prima facie eligible for the em-
16 ployment under the requirements of section 274A(b)
17 of such Act;

18 (2) the employer followed all procedures re-
19 quired in the system; and

20 (3)(A) the alien was verified under the system
21 as eligible for the employment; or

22 (B) the employer discharged the alien within a
23 reasonable period after receiving notice that the final
24 verification procedure had failed to verify that the
25 alien was eligible for the employment.

1 (f) RESTRICTION ON USE OF DOCUMENTS.—If the
2 Attorney General determines that any document described
3 in section 274A(b)(1) of the Immigration and Nationality
4 Act as establishing employment authorization or identity
5 does not reliably establish such authorization or identity
6 or, to an unacceptable degree, is being used fraudulently
7 or is being requested for purposes not authorized by this
8 Act, the Attorney General may, by regulation, prohibit or
9 place conditions on the use of the document for purposes
10 of the system or the verification system established in sec-
11 tion 274A(b) of the Immigration and Nationality Act.

12 (g) PROTECTION FROM LIABILITY FOR ACTIONS
13 TAKEN ON THE BASIS OF INFORMATION PROVIDED BY
14 THE VERIFICATION SYSTEM.—No person shall be civilly
15 or criminally liable under section 274A of the Immigration
16 and Nationality Act for any action adverse to an individual
17 if such action was taken in good faith reliance on informa-
18 tion relating to such individual provided through the sys-
19 tem (including any demonstration project conducted under
20 section 112).

21 (h) STATUTORY CONSTRUCTION.—The provisions of
22 this section supersede the provisions of section 274A of
23 the Immigration and Nationality Act to the extent of any
24 inconsistency therewith.

1 **SEC. 112. DEMONSTRATION PROJECTS.**

2 (a) AUTHORITY.—

3 (1) IN GENERAL.—(A)(i) Subject to clause (ii),
4 the President, acting through the Attorney General,
5 shall begin conducting several local and regional
6 projects, and a project in the legislative branch of
7 the Federal Government, to demonstrate the feasibil-
8 ity of alternative systems for verifying eligibility for
9 employment in the United States, and immigration
10 status in the United States for purposes of eligibility
11 for benefits under public assistance programs (as de-
12 fined in section 201(f)(3) and government benefits
13 described in section 201(f)(4)).

14 (ii) Each project under this section shall be
15 consistent with the objectives of section 111(b) and
16 this section and shall be conducted in accordance
17 with an agreement entered into with the State, local-
18 ity, employer, other entity, or the legislative branch
19 of the Federal Government, as the case may be.

20 (iii) In determining which State(s), localities,
21 employers, or other entities shall be designated for
22 such projects, the Attorney General shall take into
23 account the estimated number of excludable aliens
24 and deportable aliens in each State or locality.

25 (B) For purposes of this paragraph, the term
26 “legislative branch of the Federal Government” in-

1 includes all offices described in section 101(9) of the
2 Congressional Accountability Act of 1995 (2 U.S.C.
3 1301(9)) and all agencies of the legislative branch of
4 Government.

5 (2) DESCRIPTION OF PROJECTS.—Demonstra-
6 tion projects conducted under this subsection may
7 include, but are not limited to—

8 (A) a system which allows employers to
9 verify the eligibility for employment of new em-
10 ployees using Administration records and, if
11 necessary, to conduct a cross-check using Serv-
12 ice records;

13 (B) a simulated linkage of the electronic
14 records of the Service and the Administration
15 to test the technical feasibility of establishing a
16 linkage between the actual electronic records of
17 the Service and the Administration;

18 (C) improvements and additions to the
19 electronic records of the Service and the Admin-
20 istration for the purpose of using such records
21 for verification of employment eligibility;

22 (D) a system which allows employers to
23 verify the continued eligibility for employment
24 of employees with temporary work authoriza-
25 tion;

1 (E) a system that requires employers to
2 verify the validity of employee social security
3 account numbers through a telephone call, and
4 to verify employee identity through a United
5 States passport, a State driver's license or iden-
6 tification document, or a document issued by
7 the Service for purposes of this clause;

8 (F) a system which is based on State-is-
9 sued driver's licenses and identification cards
10 that include a machine readable social security
11 account number and are resistant to tampering
12 and counterfeiting; and

13 (G) a system that requires employers to
14 verify with the Service the immigration status
15 of every employee except one who has attested
16 that he or she is a United States citizen or na-
17 tional.

18 (3) COMMENCEMENT DATE.—The first dem-
19 onstration project under this section shall commence
20 not later than six months after the date of the en-
21 actment of this Act.

22 (4) TERMINATION DATE.—The authority of
23 paragraph (1) shall cease to be effective four years
24 after the date of enactment of this Act, except that,
25 if the President determines that any one or more of

1 the projects conducted pursuant to paragraph (2)
2 should be renewed, or one or more additional
3 projects should be conducted before a plan is rec-
4 ommended under section 111(a)(1)(A), the Presi-
5 dent may conduct such project or projects for up to
6 an additional three-year period, without regard to
7 section 274A(d)(4)(A) of the Immigration and Na-
8 tionality Act.

9 (b) OBJECTIVES.—The objectives of the demonstra-
10 tion projects conducted under this section are—

11 (1) to assist the Attorney General in measuring
12 the benefits and costs of systems for verifying eligi-
13 bility for employment in the United States, and im-
14 migration status in the United States for purposes
15 of eligibility for benefits under public assistance pro-
16 grams defined in section 201(f)(3) and for govern-
17 ment benefits described in section 201(f)(4);

18 (2) to assist the Service and the Administration
19 in determining the accuracy of Service and Adminis-
20 tration data that may be used in such systems; and

21 (3) to provide the Attorney General with infor-
22 mation necessary to make determinations regarding
23 the likely effects of the tested systems on employers,
24 employees, and other individuals, including informa-
25 tion on—

1 (A) losses of employment to individuals as
2 a result of inaccurate information in the
3 system;

4 (B) unlawful discrimination;

5 (C) privacy violations;

6 (D) cost to individual employers, including
7 the cost per employee and the total cost as a
8 percentage of the employers payroll; and

9 (E) timeliness of initial and final verifica-
10 tion determinations.

11 (c) CONGRESSIONAL CONSULTATION.—(1) Not later
12 than 12 months after the date of the enactment of this
13 Act, and annually thereafter, the Attorney General or the
14 Attorney General’s representatives shall consult with the
15 Committees on the Judiciary of the House of Representa-
16 tives and the Senate regarding the demonstration projects
17 being conducted under this section.

18 (2) The Attorney General or her representative, in
19 fulfilling the obligations described in paragraph (1), shall
20 submit to the Congress the estimated cost to employers
21 of each demonstration project, including the system’s indi-
22 rect and administrative costs to employers.

23 (d) IMPLEMENTATION.—In carrying out the projects
24 described in subsection (a), the Attorney General shall—

1 (1) support and, to the extent possible, facili-
2 tate the efforts of Federal and State government
3 agencies in developing—

4 (A) tamper- and counterfeit-resistant docu-
5 ments that may be used in a new verification
6 system, including drivers' licenses or similar
7 documents issued by a State for the purpose of
8 identification, the social security account num-
9 ber card issued by the Administration, and cer-
10 tificates of birth in the United States or estab-
11 lishing United States nationality at birth; and

12 (B) recordkeeping systems that would re-
13 duce the fraudulent obtaining of such docu-
14 ments, including a nationwide system to match
15 birth and death records;

16 (2) require appropriate notice to prospective
17 employees concerning employers' participation in a
18 demonstration project, which notice shall contain in-
19 formation on filing complaints regarding misuse of
20 information or unlawful discrimination by employers
21 participating in the demonstration; and

22 (3) require employers to establish procedures
23 developed by the Attorney General—

24 (A) to safeguard all personal information
25 from unauthorized disclosure and to condition

1 release of such information to any person or en-
2 tity upon the person's or entity's agreement to
3 safeguard such information; and

4 (B) to provide notice to all new employees
5 and applicants for employment of the right to
6 request an agency to review, correct, or amend
7 the employee's or applicant's record and the
8 steps to follow to make such a request.

9 (e) REPORT OF ATTORNEY GENERAL.—Not later
10 than 60 days before the expiration of the authority for
11 subsection (a)(1), the Attorney General shall submit to the
12 Congress a report containing an evaluation of each of the
13 demonstration projects conducted under this section, in-
14 cluding the findings made by the Comptroller General
15 under section 113.

16 (f) SYSTEM REQUIREMENTS.—

17 (1) IN GENERAL.—Demonstration projects con-
18 ducted under this section shall substantially meet
19 the criteria in section 111(c)(1), except that with re-
20 spect to the criteria in subparagraphs (D) and (G)
21 of section 111(c)(1), such projects are required only
22 to be likely to substantially meet the criteria, as de-
23 termined by the Attorney General.

24 (2) SUPERSEDING EFFECT.—If the Attorney
25 General determines that any demonstration project

1 conducted under this section substantially meets the
 2 criteria in section 111(c)(1), other than the criteria
 3 in subparagraphs (D) and (G) of that section, and
 4 meets the criteria in such subparagraphs (D) and
 5 (G) to a sufficient degree, the requirements for par-
 6 ticipants in such project shall apply during the re-
 7 maining period of its operation in lieu of the proce-
 8 dures required under section 274A(b) of the Immi-
 9 gration and Nationality Act. Section 274B of such
 10 Act shall remain fully applicable to the participants
 11 in the project.

12 (g) AUTHORIZATION OF APPROPRIATIONS.—There
 13 are authorized to be appropriated such sums as may be
 14 necessary to carry out this section.

15 (h) STATUTORY CONSTRUCTION.—The provisions of
 16 this section supersede the provisions of section 274A of
 17 the Immigration and Nationality Act to the extent of any
 18 inconsistency therewith.

19 **SEC. 113. COMPTROLLER GENERAL MONITORING AND**
 20 **REPORTS.**

21 (a) IN GENERAL.—The Comptroller General of the
 22 United States shall track, monitor, and evaluate the com-
 23 pliance of each demonstration project with the objectives
 24 of sections 111 and 112, and shall verify the results of
 25 the demonstration projects.

1 (b) RESPONSIBILITIES.—

2 (1) COLLECTION OF INFORMATION.—The
3 Comptroller General of the United States shall col-
4 lect and consider information on each requirement
5 described in section 111(a)(1)(C).

6 (2) TRACKING AND RECORDING OF PRAC-
7 TICES.—The Comptroller General shall track and
8 record unlawful discriminatory employment prac-
9 tices, if any, resulting from the use or disclosure of
10 information pursuant to a demonstration project or
11 implementation of the system, using such methods
12 as—

13 (A) the collection and analysis of data;

14 (B) the use of hiring audits; and

15 (C) use of computer audits, including the
16 comparison of such audits with hiring records.

17 (3) MAINTENANCE OF DATA.—The Comptroller
18 General shall also maintain data on unlawful dis-
19 criminatory practices occurring among a representa-
20 tive sample of employers who are not participants in
21 any project under this section to serve as a baseline
22 for comparison with similar data obtained from em-
23 ployers who are participants in projects under this
24 section.

25 (c) REPORTS.—

1 (1) DEMONSTRATION PROJECTS.—Beginning
2 12 months after the date of the enactment of this
3 Act, and annually thereafter, the Comptroller Gen-
4 eral of the United States shall submit a report to
5 the Committees on the Judiciary of the House of
6 Representatives and the Senate setting forth evalua-
7 tions of—

8 (A) the extent to which each demonstration
9 project is meeting each of the requirements of
10 section 111(c); and

11 (B) the Comptroller General’s preliminary
12 findings made under this section.

13 (2) VERIFICATION SYSTEM.—Not later than 60
14 days after the submission to the Congress of the
15 plan under section 111(a)(2), the Comptroller Gen-
16 eral of the United States shall submit a report to
17 the Congress setting forth an evaluation of—

18 (A) the extent to which the proposed sys-
19 tem, if any, meets each of the requirements of
20 section 111(c); and

21 (B) the Comptroller General’s findings
22 made under this section.

1 **SEC. 114. GENERAL NONPREEMPTION OF EXISTING RIGHTS**
 2 **AND REMEDIES.**

3 Nothing in this subpart may be construed to deny,
 4 impair, or otherwise adversely affect any right or remedy
 5 available under Federal, State, or local law to any person
 6 on or after the date of the enactment of this Act except
 7 to the extent the right or remedy is inconsistent with any
 8 provision of this part.

9 **SEC. 115. DEFINITIONS.**

10 For purposes of this subpart—

11 (1) **ADMINISTRATION.**— The term “Administra-
 12 tion” means the Social Security Administration.

13 (2) **EMPLOYMENT AUTHORIZED ALIEN.**—The
 14 term “employment authorized alien” means an alien
 15 who has been provided with an “employment author-
 16 ized” endorsement by the Attorney General or other
 17 appropriate work permit in accordance with the Im-
 18 migration and Nationality Act.

19 (3) **SERVICE.**—The term “Service” means the
 20 Immigration and Naturalization Service.

21 **Subpart B—Strengthening Existing Verification**
 22 **Procedures**

23 **SEC. 116. CHANGES IN LIST OF ACCEPTABLE EMPLOY-**
 24 **MENT-VERIFICATION DOCUMENTS.**

25 (a) **AUTHORITY TO REQUIRE SOCIAL SECURITY AC-**
 26 **COUNT NUMBERS.**—Section 274A (8 U.S.C. 1324a) is

1 amended by adding at the end of subsection (b)(2) the
 2 following new sentence: “The Attorney General is author-
 3 ized to require an individual to provide on the form de-
 4 scribed in paragraph (1)(A) the individual’s social security
 5 account number for purposes of complying with this
 6 section.”.

7 (b) CHANGES IN ACCEPTABLE DOCUMENTATION FOR
 8 EMPLOYMENT AUTHORIZATION AND IDENTITY.—

9 (1) REDUCTION IN NUMBER OF ACCEPTABLE
 10 EMPLOYMENT-VERIFICATION DOCUMENTS.—Section
 11 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

12 (A) in subparagraph (B)—

13 (i) by striking clauses (ii), (iii), and
 14 (iv);

15 (ii) by redesignating clause (v) as
 16 clause (ii);

17 (iii) in clause (i), by adding at the end
 18 “or”;

19 (iv) in clause (ii) (as redesignated), by
 20 amending the text preceding subclause (I)
 21 to read as follows:

22 “(ii) resident alien card, alien reg-
 23 istration card, or other document des-
 24 ignated by regulation by the Attorney Gen-
 25 eral, if the document—”; and

1 (v) in clause (ii) (as redesignated)—

2 (I) by striking “and” at the end
3 of subclause (I);

4 (II) by striking the period at the
5 end of subclause (II) and inserting “,
6 and”; and

7 (III) by adding at the end the
8 following new subclause:

9 “(III) contains appropriate secu-
10 rity features.”; and

11 (B) in subparagraph (C)—

12 (i) by inserting “or” after the “semi-
13 colon” at the end of clause (i);

14 (ii) by striking clause (ii); and

15 (iii) by redesignating clause (iii) as
16 clause (ii).

17 (2) AUTHORITY TO PROHIBIT USE OF CERTAIN
18 DOCUMENTS.—If the Attorney General finds, by reg-
19 ulation, that any document described in section
20 274A(b)(1) of the Immigration and Nationality Act
21 (8 U.S.C. 1324a(b)(1)) as establishing employment
22 authorization or identity does not reliably establish
23 such authorization or identity or is being used fraud-
24 ulently to an unacceptable degree, the Attorney Gen-
25 eral may prohibit or place conditions on its use for

1 purposes of the verification system established in
 2 section 274A(b) of the Immigration and Nationality
 3 Act under section 111 of this Act.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 subsections (a) and (b)(1) shall apply with respect to hir-
 6 ing (or recruiting or referring) occurring on or after such
 7 date as the Attorney General shall designate (but not later
 8 than 180 days after the date of the enactment of this Act).

9 **SEC. 117. TREATMENT OF CERTAIN DOCUMENTARY PRAC-**
 10 **TICES AS UNFAIR IMMIGRATION-RELATED**
 11 **EMPLOYMENT PRACTICES**

12 Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is
 13 amended—

14 (1) by striking “For purposes of paragraph (1),
 15 a” and inserting “A”; and

16 (2) by striking “relating to the hiring of indi-
 17 viduals” and inserting the following: “if made for
 18 the purpose or with the intent of discriminating
 19 against an individual in violation of paragraph (1)”.

20 **SEC. 118. IMPROVEMENTS IN IDENTIFICATION-RELATED**
 21 **DOCUMENTS.**

22 (a) BIRTH CERTIFICATES.—

23 (1) LIMITATION ON ACCEPTANCE.—(A) No
 24 Federal agency, including but not limited to the So-
 25 cial Security Administration and the Department of

1 State, and no State agency that issues driver's li-
2 censes or identification documents, may accept for
3 any official purpose a copy of a birth certificate, as
4 defined in paragraph (5), unless it is issued by a
5 State or local government registrar and it conforms
6 to standards described in subparagraph (B).

7 (B) The standards described in this subpara-
8 graph are those set forth in regulations promulgated
9 by the Secretary of Health and Human Services,
10 after consultation with the Association for Public
11 Health Statistics and Information Systems
12 (APHSIS), and shall include but not be limited to—

13 (i) certification by the agency issuing the
14 birth certificate, and

15 (ii) use of safety paper, the seal of the is-
16 suing agency, and other features designed to
17 limit tampering, counterfeiting, and use by
18 impostors.

19 (2) LIMITATION ON ISSUANCE.—(A) If one or
20 more of the conditions described in subparagraph
21 (B) is present, no State or local government agency
22 may issue an official copy of a birth certificate per-
23 taining to an individual unless the copy prominently
24 notes that such individual is deceased.

1 (B) The conditions described in this subpara-
2 graph include—

3 (i) the presence on the original birth cer-
4 tificate of a notation that the individual is de-
5 ceased, or

6 (ii) actual knowledge by the issuing agency
7 that the individual is deceased obtained through
8 information provided by the Social Security Ad-
9 ministration, by an interstate system of birth-
10 death matching, or otherwise.

11 (3) GRANTS TO STATES.—(A)(i) The Secretary
12 of Health and Human Services shall establish a
13 fund, administered through the National Center for
14 Health Statistics, to provide grants to the States to
15 encourage them to develop the capability to match
16 birth and death records, within each State and
17 among the States, and to note the fact of death on
18 the birth certificates of deceased persons. In develop-
19 ing the capability described in the preceding sen-
20 tence, States shall focus first on persons who were
21 born after 1950.

22 (ii) Such grants shall be provided in proportion
23 to population and in an amount needed to provide
24 a substantial incentive for the States to develop such
25 capability.

1 (B) The Secretary of Health and Human Serv-
2 ices shall establish a fund, administered through the
3 National Center for Health Statistics, to provide
4 grants to the States for a project in each of 5 States
5 to demonstrate the feasibility of a system by which
6 each such State's office of vital statistics would be
7 provided, within 24 hours, sufficient information to
8 establish the fact of death of every individual dying
9 in such State.

10 (C) There are authorized to be appropriated to
11 the Department of Health and Human Services such
12 amounts as may be necessary to provide the grants
13 described in subparagraphs (A) and (B).

14 (4) REPORT.—Not later than one year after the
15 date of the enactment of this Act, the Secretary of
16 Health and Human Services shall submit a report to
17 the Congress on ways to reduce the fraudulent ob-
18 taining and the fraudulent use of birth certificates,
19 including any such use to obtain a social security ac-
20 count number or a State or Federal document relat-
21 ed to identification or immigration.

22 (5) CERTIFICATE OF BIRTH.—As used in this
23 section, the term “birth certificate” means a certifi-
24 cate of birth registered in the United States.

1 (6) EFFECTIVE DATE.—This subsection shall
2 take effect on October 1, 1997.

3 (b) STATE-ISSUED DRIVERS LICENSES.—

4 (1) SOCIAL SECURITY ACCOUNT NUMBER.—

5 Each State-issued driver's license and identification
6 document shall contain a social security account
7 number, except that this paragraph shall not apply
8 if the document is issued by a State that requires,
9 pursuant to a statute enacted prior to the date of
10 enactment of this Act, or pursuant to a regulation
11 issued thereunder or an administrative policy, that—

12 (A) every applicant for such license or doc-
13 ument submit the number, and

14 (B) an agency of such State verify with the
15 Social Security Administration that the number
16 is valid and is not a number assigned for use
17 by persons without authority to work in the
18 United States.

19 (2) APPLICATION PROCESS.—The application
20 process for a State driver's license or identification
21 document shall include the presentation of such evi-
22 dence of identity as is required by regulations pro-
23 mulgated by the Secretary of Transportation, after
24 consultation with the American Association of Motor
25 Vehicle Administrators.

1 (3) FORM OF LICENSE AND IDENTIFICATION
 2 DOCUMENT.—Each State driver’s license and identi-
 3 fication document shall be in a form consistent with
 4 requirements set forth in regulations promulgated by
 5 the Secretary of Transportation, after consultation
 6 with the American Association of Motor Vehicle Ad-
 7 ministrators. Such form shall contain security fea-
 8 tures designed to limit tampering, counterfeiting,
 9 and use by impostors.

10 (4) LIMITATION ON ACCEPTANCE OF LICENSE
 11 AND IDENTIFICATION DOCUMENT.—Neither the So-
 12 cial Security Administration or the Passport Office
 13 or any other Federal agency or any State or local
 14 government agency may accept for any evidentiary
 15 purpose a State driver’s license or identification doc-
 16 ument in a form other than the form described in
 17 paragraph (3).

18 (5) EFFECTIVE DATE.—This subsection shall
 19 take effect on October 1, 1997.

20 **SEC. 119. ENHANCED CIVIL PENALTIES IF LABOR STAND-**
 21 **ARDS VIOLATIONS ARE PRESENT.**

22 (a) IN GENERAL.—Section 274A(e) (8 U.S.C.
 23 1324a(e)) is amended by adding at the end the following:

24 “(10)(A) The administrative law judge shall
 25 have the authority to require payment of a civil

1 money penalty in an amount up to two times the
2 amount of the penalty prescribed by this subsection
3 in any case in which the employer has been found
4 to have committed a willful violation or repeated vio-
5 lations of any of the following statutes:

6 “(i) The Fair Labor Standards Act (29
7 U.S.C. 201 et seq.) pursuant to a final deter-
8 mination by the Secretary of Labor or a court
9 of competent jurisdiction.

10 “(ii) The Migrant and Seasonal Agricul-
11 tural Worker Protection Act (29 U.S.C. 1801 et
12 seq.) pursuant to a final determination by the
13 Secretary of Labor or a court of competent
14 jurisdiction.

15 “(iii) The Family and Medical Leave Act
16 (29 U.S.C. 2601 et seq.) pursuant to a final de-
17 termination by the Secretary of Labor or a
18 court of competent jurisdiction.

19 “(B) The Secretary of Labor and the Attorney
20 General shall consult regarding the administration of
21 this paragraph.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply with respect to offenses occurring
24 on or after the date of the enactment of this Act.

1 **SEC. 120. INCREASED NUMBER OF ASSISTANT UNITED**
 2 **STATES ATTORNEYS TO PROSECUTE CASES**
 3 **OF UNLAWFUL EMPLOYMENT OF ALIENS OR**
 4 **DOCUMENT FRAUD.**

5 The Attorney General is authorized to hire for fiscal
 6 years 1996 and 1997 such additional Assistant United
 7 States Attorneys as may be necessary for the prosecution
 8 of actions brought under sections 274A and 274C of the
 9 Immigration and Nationality Act and sections 911, 1001,
 10 1015 through 1018, 1028, 1030, 1541 through 1544,
 11 1546, and 1621 of title 18, United States Code. Each such
 12 additional attorney shall be used primarily for such pros-
 13 ecutions.

14 **SEC. 120A. SUBPOENA AUTHORITY FOR CASES OF UNLAW-**
 15 **FUL EMPLOYMENT OF ALIENS OR DOCUMENT**
 16 **FRAUD.**

17 (a) IMMIGRATION OFFICER AUTHORITY.—

18 (1) UNLAWFUL EMPLOYMENT.—Section
 19 274A(e)(2) (8 U.S.C. 1324a(e)(1)) is amended—

20 (A) by striking “and” at the end of sub-
 21 paragraph (A);

22 (B) by striking the period at the end of
 23 subparagraph (B) and inserting “, and”; and

24 (C) by inserting after subparagraph (B)
 25 the following new subparagraph:

1 “(C) immigration officers designated by
 2 the Commissioner may compel by subpoena the
 3 attendance of witnesses and the production of
 4 evidence at any designated place prior to the fil-
 5 ing of a complaint in a case under paragraph
 6 (2).”.

7 (2) DOCUMENT FRAUD.—Section 274C(d)(1) (8
 8 U.S.C. 1324c(d)(1)) is amended—

9 (A) by striking “and” at the end of sub-
 10 paragraph (A);

11 (B) by striking the period at the end of
 12 subparagraph (B) and inserting “, and”; and

13 (C) by inserting after subparagraph (B)
 14 the following new subparagraph:

15 “(C) immigration officers designated by
 16 the Commissioner may compel by subpoena the
 17 attendance of witnesses and the production of
 18 evidence at any designated place prior to the fil-
 19 ing of a complaint in a case under paragraph
 20 (2).”.

21 (b) SECRETARY OF LABOR SUBPOENA
 22 AUTHORITY.—

23 (1) IN GENERAL.—Chapter 9 of title II of the
 24 Immigration and Nationality Act is amended by
 25 adding at the end the following new section:

1 “SECRETARY OF LABOR SUBPOENA AUTHORITY

2 “SEC. 294. The Secretary of Labor may issue sub-
 3 poenas requiring the attendance and testimony of wit-
 4 nesses or the production of any records, books, papers,
 5 or documents in connection with any investigation or hear-
 6 ing conducted in the enforcement of any immigration pro-
 7 gram for which the Secretary of Labor has been delegated
 8 enforcement authority under the Act. In such hearing, the
 9 Secretary of Labor may administer oaths, examine wit-
 10 nesses, and receive evidence. For the purpose of any such
 11 hearing or investigation, the authority contained in sec-
 12 tions 9 and 10 of the Federal Trade Commission Act (15
 13 U.S.C. 49, 50), relating to the attendance of witnesses and
 14 the production of books, papers, and documents, shall be
 15 available to the Secretary of Labor.”.

16 (2) CONFORMING AMENDMENT.—The table of
 17 contents of the Immigration and Nationality Act is
 18 amended by inserting after the item relating to sec-
 19 tion 293 the following new item:

“Sec. 294. Secretary of Labor subpoena authority.”.

1 **SEC. 120B. TASK FORCE TO IMPROVE PUBLIC EDUCATION**
2 **REGARDING UNLAWFUL EMPLOYMENT OF**
3 **ALIENS AND UNFAIR IMMIGRATION-RELATED**
4 **EMPLOYMENT PRACTICES.**

5 (a) ESTABLISHMENT.—The Attorney General shall
6 establish a task force within the Department of Justice
7 charged with the responsibility of—

8 (1) providing advice and guidance to employers
9 and employees relating to unlawful employment of
10 aliens under section 274A of the Immigration and
11 Nationality Act and unfair immigration-related em-
12 ployment practices under 274B of such Act; and

13 (2) assisting employers in complying with those
14 laws.

15 (b) COMPOSITION.—The members of the task force
16 shall be designated by the Attorney General from among
17 officers or employees of the Immigration and Naturaliza-
18 tion Service or other components of the Department of
19 Justice.

20 (c) ANNUAL REPORT.—The task force shall report
21 annually to the Attorney General on its operations.

22 **SEC. 120C. NATIONWIDE FINGERPRINTING OF APPRE-**
23 **HENDED ALIENS.**

24 There are authorized to be appropriated such addi-
25 tional sums as may be necessary to ensure that the pro-
26 gram “IDENT”, operated by the Immigration and Natu-

1 ralization Service pursuant to section 130007 of Public
 2 Law 103–322, shall be expanded into a nationwide
 3 program.

4 **SEC. 120D. APPLICATION OF VERIFICATION PROCEDURES**
 5 **TO STATE AGENCY REFERRALS OF EMPLOY-**
 6 **MENT.**

7 Section 274A(a) (8 U.S.C. 1324a(a)) is amended by
 8 adding at the end the following new paragraph:

9 “(6) STATE AGENCY REFERRALS.—A State em-
 10 ployment agency that refers any individual for em-
 11 ployment shall comply with the procedures specified
 12 in subsection (b). For purposes of the attestation re-
 13 quirement in subsection (b)(1), the agency employee
 14 who is primarily involved in the referral of the indi-
 15 vidual shall make the attestation on behalf of the
 16 agency.”.

17 **SEC. 120E. RETENTION OF VERIFICATION FORM.**

18 Section 274A(b)(3) (8 U.S.C. 1324a(b)(3)) is amend-
 19 ed by inserting after “must retain the form” the following:
 20 “(except in any case of disaster, act of God, or other event
 21 beyond the control of the person or entity)”.

1 **PART 3—ALIEN SMUGGLING; DOCUMENT FRAUD**
2 **SEC. 121. WIRETAP AUTHORITY FOR INVESTIGATIONS OF**
3 **ALIEN SMUGGLING OR DOCUMENT FRAUD.**

4 Section 2516(1) of title 18, United States Code, is
5 amended—

6 (1) in paragraph (c), by striking “or section
7 1992 (relating to wrecking trains)” and inserting
8 “section 1992 (relating to wrecking trains), a felony
9 violation of section 1028 (relating to production of
10 false identification documentation), section 1425 (re-
11 lating to the procurement of citizenship or national-
12 ization unlawfully), section 1426 (relating to the re-
13 production of naturalization or citizenship papers),
14 section 1427 (relating to the sale of naturalization
15 or citizenship papers), section 1541 (relating to
16 passport issuance without authority), section 1542
17 (relating to false statements in passport applica-
18 tions), section 1543 (relating to forgery or false use
19 of passports), section 1544 (relating to misuse of
20 passports), or section 1546 (relating to fraud and
21 misuse of visas, permits, and other documents)”;

22 (2) by striking “or” at the end of paragraph
23 (l);

24 (3) by redesignating paragraphs (m), (n), and
25 (o) as paragraphs (n), (o), and (p), respectively; and

1 (4) by inserting after paragraph (l) the follow-
 2 ing new paragraph:

3 “(m) a violation of section 274, 277, or 278 of the
 4 Immigration and Nationality Act (8 U.S.C. 1324, 1327,
 5 or 1328) (relating to the smuggling of aliens);”.

6 **SEC. 122. ADDITIONAL COVERAGE IN RICO FOR OFFENSES**
 7 **RELATING TO ALIEN SMUGGLING AND DOCU-**
 8 **MENT FRAUD.**

9 Section 1961(1) of title 18, United States Code, is
 10 amended—

11 (1) by striking “or” after “law of the United
 12 States,”;

13 (2) by inserting “or” at the end of clause (E);
 14 and

15 (3) by adding at the end the following: “(F)
 16 any act, or conspiracy to commit any act, in viola-
 17 tion of—

18 “(i) section 1028 (relating to production of
 19 false identification documentation), section
 20 1425 (relating to the procurement of citizenship
 21 or nationalization unlawfully), section 1426 (re-
 22 lating to the reproduction of naturalization or
 23 citizenship papers), section 1427 (relating to
 24 the sale of naturalization or citizenship papers),
 25 section 1541 (relating to passport issuance

without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), or section 1544 (relating to misuse of passports) of this title, or, for personal financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title; or

“(ii) section 274, 277, or 278 of the Immigration and Nationality Act.”.

SEC. 123. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

(a) IN GENERAL.—Section 274(a) (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)(A)—

(A) by striking “or” at the end of clause (iii);

(B) by striking the comma at the end of clause (iv) and inserting “; or”; and

(C) by adding at the end the following new clause:

“(v)(I) engages in any conspiracy to commit any of the preceding acts, or

“(II) aids or abets the commission of any of the preceding acts,”;

1 (2) in paragraph (1)(B)—

2 (A) in clause (i), by inserting “or (v)(I)”
3 after “(A)(i)”;

4 (B) in clause (ii), by striking “or (iv)” and
5 inserting “(iv), or (v)(II)”;

6 (C) in clause (iii), by striking “or (iv)” and
7 inserting “(iv), or (v)”;

8 (D) in clause (iv), by striking “or (iv)” and
9 inserting “(iv), or (v)”;

10 (3) in paragraph (2)—

11 (A) in the matter preceding subparagraph
12 (A), by striking “for each transaction constitut-
13 ing a violation of this paragraph, regardless of
14 the number of aliens involved” and inserting
15 “for each alien in respect to whom a violation
16 of this paragraph occurs”; and

17 (B) in the matter following subparagraph
18 (B)(iii), by striking “be fined” and all that fol-
19 lows through the period and inserting the fol-
20 lowing: “be fined under title 18, United States
21 Code, and shall be imprisoned for a first or sec-
22 ond offense, not more than 10 years, and for a
23 third or subsequent offense, not more than 15
24 years.”; and

1 (4) by adding at the end the following new
2 paragraph:

3 “(3) Any person who hires for employment an
4 alien—

5 “(A) knowing that such alien is an unau-
6 thorized alien (as defined in section
7 274A(h)(3)), and

8 “(B) knowing that such alien has been
9 brought into the United States in violation of
10 this subsection,

11 shall be fined under title 18, United States Code,
12 and shall be imprisoned for not more than 5 years.”.

13 (b) SMUGGLING OF ALIENS WHO WILL COMMIT
14 CRIMES.—Section 274(a)(2)(B) (8 U.S.C. 1324(a)(2)) is
15 amended—

16 (1) by striking “or” at the end of clause (ii);

17 (2) by redesignating clause (iii) as clause (iv);

18 and

19 (3) by inserting after clause (ii) the following
20 new clause:

21 “(iii) an offense committed with the
22 intent, or with substantial reason to be-
23 lieve, that the alien unlawfully brought into
24 the United States will commit an offense
25 against the United States or any State

1 punishable by imprisonment for more than
 2 1 year; or”.

3 (c) SENTENCING GUIDELINES.—

4 (1) IN GENERAL.—Pursuant to its authority
 5 under section 994(p) of title 28, United States Code,
 6 the United States Sentencing Commission shall pro-
 7 mulgate sentencing guidelines or amend existing
 8 sentencing guidelines for offenders convicted of of-
 9 fenses related to smuggling, transporting, harboring,
 10 or inducing aliens in violation of section 274(a)
 11 (1)(A) or (2)(B) of the Immigration and Nationality
 12 Act (8 U.S.C. 1324(a) (1)(A), (2)(B)) in accordance
 13 with this subsection.

14 (2) REQUIREMENTS.—In carrying out this sub-
 15 section, the Commission shall, with respect to the of-
 16 fenses described in paragraph (1)—

17 (A) increase the base offense level for such
 18 offenses at least 3 offense levels above the ap-
 19 plicable level in effect on the date of the enact-
 20 ment of this Act;

21 (B) review the sentencing enhancement for
 22 the number of aliens involved (U.S.S.G.
 23 2L1.1(b)(2)), and increase the sentencing en-
 24 hancement by at least 50 percent above the ap-

1 plicable enhancement in effect on the date of
2 the enactment of this Act;

3 (C) impose an appropriate sentencing en-
4 hancement upon an offender with 1 prior felony
5 conviction arising out of a separate and prior
6 prosecution for an offense that involved the
7 same or similar underlying conduct as the cur-
8 rent offense, to be applied in addition to any
9 sentencing enhancement that would otherwise
10 apply pursuant to the calculation of the defend-
11 ant's criminal history category;

12 (D) impose an additional appropriate sen-
13 tencing enhancement upon an offender with 2
14 or more prior felony convictions arising out of
15 separate and prior prosecutions for offenses
16 that involved the same or similar underling con-
17 duct as the current offense, to be applied in ad-
18 dition to any sentencing enhancement that
19 would otherwise apply pursuant to the calcula-
20 tion of the defendant's criminal history
21 category;

22 (E) impose an appropriate sentencing en-
23 hancement on a defendant who, in the course of
24 committing an offense described in this sub-
25 section—

1 (i) murders or otherwise causes death,
 2 bodily injury, or serious bodily injury to an
 3 individual;

4 (ii) uses or brandishes a firearm or
 5 other dangerous weapon; or

6 (iii) engages in conduct that con-
 7 sciously or recklessly places another in se-
 8 rious danger of death or serious bodily in-
 9 jury;

10 (F) consider whether a downward adjust-
 11 ment is appropriate if the offense conduct in-
 12 volves fewer than 6 aliens or the defendant
 13 committed the offense other than for profit; and

14 (G) consider whether any other aggravat-
 15 ing or mitigating circumstances warrant up-
 16 ward or downward sentencing adjustments.

17 (d) EFFECTIVE DATE.—This section and the amend-
 18 ments made by this section shall apply with respect to of-
 19 fenses occurring on or after the date of the enactment of
 20 this Act.

21 **SEC. 124. ADMISSIBILITY OF VIDEOTAPED WITNESS**
 22 **TESTIMONY.**

23 Section 274 (8 U.S.C. 1324) is amended by adding
 24 at the end thereof the following new subsection:

1 “(d) Notwithstanding any provision of the Federal
 2 Rules of Evidence, the videotaped (or otherwise audio-
 3 visually preserved) deposition of a witness to a violation
 4 of subsection (a) who has been deported or otherwise ex-
 5 pelled from the United States, or is otherwise unable to
 6 testify, may be admitted into evidence in an action brought
 7 for that violation if the witness was available for cross ex-
 8 amination and the deposition otherwise complies with the
 9 Federal Rules of Evidence.”.

10 **SEC. 125. EXPANDED FORFEITURE FOR ALIEN SMUGGLING**
 11 **AND DOCUMENT FRAUD.**

12 (a) IN GENERAL.—Section 274(b) (8 U.S.C.
 13 1324(b)) is amended—

14 (1) by amending paragraph (1) to read as
 15 follows:

16 “(1) Any property, real or personal, which fa-
 17 cilitates or is intended to facilitate, or has been or
 18 is being used in or is intended to be used in the
 19 commission of, a violation of, or conspiracy to vio-
 20 late, subsection (a) or section 1028, 1425, 1426,
 21 1427, 1541, 1542, 1543, 1544, or 1546 of title 18,
 22 United States Code, or which constitutes, or is de-
 23 rived from or traceable to, the proceeds obtained di-
 24 rectly or indirectly from a commission of a violation
 25 of, or conspiracy to violate, subsection (a) or section

1 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544,
2 or 1546 of title 18, United States Code, shall be
3 subject to seizure and forfeiture, except that—

4 “(A) no property used by any person as a
5 common carrier in the transaction of business
6 as a common carrier shall be forfeited under
7 the provisions of this section unless it shall ap-
8 pear that the owner or other person in charge
9 of such property was a consenting party or
10 privy to the unlawful act;

11 “(B) no property shall be forfeited under
12 this section by reason of any act or omission es-
13 tablished by the owner thereof to have been
14 committed or omitted by any person other than
15 such owner while such property was unlawfully
16 in the possession of a person other than the
17 owner in violation of, or in conspiracy to violate,
18 the criminal laws of the United States or of any
19 State; and

20 “(C) no property shall be forfeited under
21 this paragraph to the extent of an interest of
22 any owner, by reason of any act or omission es-
23 tablished by such owner to have been committed
24 or omitted without the knowledge or consent of
25 such owner, unless such act or omission was

1 committed by an employee or agent of such
 2 owner, and facilitated or was intended to facili-
 3 tate, the commission of a violation of, or a con-
 4 spiracy to violate, subsection (a) or section
 5 1028, 1425, 1426, 1427, 1541, 1542, 1543,
 6 1544, or 1546 of title 18, United States Code,
 7 or was intended to further the business inter-
 8 ests of the owner, or to confer any other benefit
 9 upon the owner.”;

10 (2) in paragraph (2)—

11 (A) by striking “conveyance” both places it
 12 appears and inserting “property”; and

13 (B) by striking “is being used in” and in-
 14 serting “is being used in, is facilitating, has fa-
 15 cilitated, or was intended to facilitate”;

16 (3) in paragraph (3)—

17 (A) by inserting “(A)” immediately after
 18 “(3)”, and

19 (B) by adding at the end the following:

20 “(B) Before the seizure of any real prop-
 21 erty pursuant to this section, the Attorney Gen-
 22 eral shall provide notice and an opportunity to
 23 be heard to the owner of the property. The At-
 24 torney General shall prescribe such regulations

1 as may be necessary to carry out this subpara-
2 graph.”;

3 (4) in paragraphs (4) and (5), by striking “a
4 conveyance” and “conveyance” each place such
5 phrase or word appears and inserting “property”;
6 and

7 (5) in paragraph (4)—

8 (A) by striking “or” at the end of subpara-
9 graph (C);

10 (B) by striking the period at the end of
11 subparagraph (D) and inserting “; or”; and

12 (C) by adding at the end the following new
13 subparagraph:

14 “(E) transfer custody and ownership of
15 forfeited property to any Federal, State, or
16 local agency pursuant to section 616(c) of the
17 Tariff Act of 1930 (19 U.S.C. 1616a(c)).”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to offenses occurring
20 on or after the date of the enactment of this Act.

1 **SEC. 126. CRIMINAL FORFEITURE FOR ALIEN SMUGGLING,**
 2 **UNLAWFUL EMPLOYMENT OF ALIENS, OR**
 3 **DOCUMENT FRAUD.**

4 Section 274 (8 U.S.C. 1324(b)) is amended by redes-
 5 ignating subsections (c) and (d) as subsections (d) and
 6 (e) and inserting after subsection (b) the following:

7 “(c) CRIMINAL FORFEITURE.—(1) Any person con-
 8 victed of a violation of, or a conspiracy to violate, sub-
 9 section (a) or section 274A(a) (1) or (2) of this Act, or
 10 section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544,
 11 or 1546 of title 18, United States Code, shall forfeit to
 12 the United States, regardless of any provision of State
 13 law—

14 “(A) any conveyance, including any vessel, vehi-
 15 cle, or aircraft used in the commission of a violation
 16 of, or a conspiracy to violate, subsection (a); and

17 “(B) any property real or personal—

18 “(i) that constitutes, or is derived from or
 19 is traceable to the proceeds obtained directly or
 20 indirectly from the commission of a violation of,
 21 or a conspiracy to violate, subsection (a), sec-
 22 tion 274A(a) (1) or (2) of this Act, or section
 23 1028, 1425, 1426, 1427, 1541, 1542, 1543,
 24 1544, or 1546 of title 18, United States Code;
 25 or

1 “(ii) that is used to facilitate, or is in-
 2 tended to be used to facilitate, the commission
 3 of a violation of, or a conspiracy to violate, sub-
 4 section (a), section 274A(a) (1) or (2) of this
 5 Act, or section 1028, 1425, 1426, 1427, 1541,
 6 1542, 1543, 1544, or 1546 of title 18, United
 7 States Code.

8 The court, in imposing sentence on such person, shall
 9 order that the person forfeit to the United States all prop-
 10 erty described in this subsection.

11 “(2) The criminal forfeiture of property under this
 12 subsection, including any seizure and disposition of the
 13 property and any related administrative or judicial pro-
 14 ceeding, shall be governed by the provisions of section 413
 15 of the Comprehensive Drug Abuse Prevention and Control
 16 Act of 1970 (21 U.S.C. 853), other than subsections (a)
 17 and (d) of such section 413.”.

18 **SEC. 127. INCREASED CRIMINAL PENALTIES FOR**
 19 **FRAUDULENT USE OF GOVERNMENT-ISSUED**
 20 **DOCUMENTS.**

21 (a) PENALTIES FOR FRAUD AND MISUSE OF GOV-
 22 ERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—(1)
 23 Section 1028(b) of title 18, United States Code, is amend-
 24 ed to read as follows:

25 “(b)(1)(A) An offense under subsection (a) that is—

1 “(i) the production or transfer of an identifica-
2 tion document or false identification document that
3 is or appears to be—

4 “(I) an identification document issued by
5 or under the authority of the United States; or

6 “(II) a birth certificate, or a driver’s li-
7 cense or personal identification card;

8 “(ii) the production or transfer of more than
9 five identification documents or false identification
10 documents; or

11 “(iii) an offense under paragraph (5) of such
12 subsection (a);

13 shall be punishable under subparagraph (B).

14 “(B) Except as provided in paragraph (4), a person
15 who violates an offense described in subparagraph (A)
16 shall be punishable by—

17 “(i) a fine under this title, imprisonment for
18 not more than 10 years, or both, for a first or sec-
19 ond offense; or

20 “(ii) a fine under this title, imprisonment for
21 not more than 15 years, or both, for a third or sub-
22 sequent offense.

23 “(2) A person convicted of an offense under sub-
24 section (a) that is—

1 “(A) any other production or transfer of an
2 identification document or false identification docu-
3 ment; or

4 “(B) an offense under paragraph (3) of such
5 subsection;

6 shall be punishable by a fine under this title, imprison-
7 ment for not more than three years, or both.

8 “(3) A person convicted of an offense under sub-
9 section (a), other than an offense described in paragraph
10 (1) or (2), shall be punishable by a fine under this title,
11 imprisonment for not more than one year, or both.

12 “(4) Notwithstanding any other provision of this sec-
13 tion, the maximum term of imprisonment that may be im-
14 posed for an offense described in paragraph (1)(A) shall
15 be—

16 “(A) if committed to facilitate a drug traffick-
17 ing crime (as defined in section 929(a) of this title),
18 15 years; and

19 “(B) if committed to facilitate an act of inter-
20 national terrorism (as defined in section 2331 of this
21 title), 20 years.”.

22 (2) Sections 1541 through 1544 of title 18, United
23 States Code, are amended by striking be fined under this
24 title, imprisoned not more than 10 years, or both.” each
25 place it appears and inserting the following:

1 “, except as otherwise provided in this section, be—

2 “(1) fined under this title, imprisoned for not
3 more than 10 years, or both, for a first or second
4 offense; or

5 “(2) fined under this title, imprisoned for not
6 more than 15 years, or both, for a third or subse-
7 quent offense.

8 “Notwithstanding any other provision of this section,
9 the maximum term of imprisonment that may be imposed
10 for an offense under this section—

11 “(1) if committed to facilitate a drug traffick-
12 ing crime (as defined in section 929(a) of this title),
13 is 15 years; and

14 “(2) if committed to facilitate an act of inter-
15 national terrorism (as defined in section 2331 of this
16 title), is 20 years.”.

17 (3) Section 1546(a) of title 18, United States Code,
18 is amended by striking “be fined under this title, impris-
19 oned not more than 10 years, or both.” and inserting the
20 following:

21 “, except as otherwise provided in this subsection,
22 be—

23 “(1) fined under this title, imprisoned for not
24 more than 10 years, or both, for a first or second
25 offense; or

1 “(2) fined under this title, imprisoned for not
2 more than 15 years, or both, for a third or subse-
3 quent offense.

4 “Notwithstanding any other provision of this sub-
5 section, the maximum term of imprisonment that may be
6 imposed for an offense under this subsection—

7 “(1) if committed to facilitate a drug traffick-
8 ing crime (as defined in section 929(a) of this title),
9 is 15 years; and

10 “(2) if committed to facilitate an act of inter-
11 national terrorism (as defined in section 2331 of this
12 title), is 20 years.”.

13 (4) Sections 1425 through 1427 of title 18, United
14 States Code, are amended by striking “be fined not more
15 than \$5,000 or imprisoned not more than five years, or
16 both” each place it appears and inserting “, except as oth-
17 erwise provided in this section, be—

18 “(1) fined under this title, imprisoned for not
19 more than 10 years, or both, for a first or second
20 offense; or

21 “(2) fined under this title, imprisoned for not
22 more than 15 years, or both, for a third or subse-
23 quent offense.

1 “Notwithstanding any other provision of this section,
 2 the maximum term of imprisonment that may be imposed
 3 for an offense under this section—

4 “(1) if committed to facilitate a drug traffick-
 5 ing crime (as defined in section 929(a) of this title),
 6 is 15 years; and

7 “(2) if committed to facilitate an act of inter-
 8 national terrorism (as defined in section 2331 of this
 9 title), is 20 years.”.

10 (b) CHANGES TO THE SENTENCING LEVELS.—

11 (1) IN GENERAL.—Pursuant to the Commis-
 12 sion’s authority under section 994(p) of title 28,
 13 United States Code, the United States Sentencing
 14 Commission shall promulgate sentencing guidelines
 15 or amend existing sentencing guidelines for offend-
 16 ers convicted of violating, or conspiring to violate,
 17 sections 1028(b)(1), 1425 through 1427, 1541
 18 through 1544, and 1546(a) of title 18, United
 19 States Code, in accordance with this subsection.

20 (2) REQUIREMENTS.—In carrying out this sub-
 21 section, the Commission shall, with respect to the of-
 22 fenses referred to in paragraph (1)—

23 (A) increase the base offense level for such
 24 offenses at least 2 offense levels above the level

1 in effect on the date of the enactment of this
2 Act;

3 (B) review the sentencing enhancement for
4 number of documents or passports involved
5 (U.S.S.G. 2L2.1(b)(2)), and increase the up-
6 ward adjustment by at least 50 percent above
7 the applicable enhancement in effect on the
8 date of the enactment of this Act;

9 (C) impose an appropriate sentencing en-
10 hancement upon an offender with 1 prior felony
11 conviction arising out of a separate and prior
12 prosecution for an offense that involved the
13 same or similar underlying conduct as the cur-
14 rent offense, to be applied in addition to any
15 sentencing enhancement that would otherwise
16 apply pursuant to the calculation of the defend-
17 ant's criminal history category;

18 (D) impose an additional appropriate sen-
19 tencing enhancement upon an offender with 2
20 or more prior felony convictions arising out of
21 separate and prior prosecutions for offenses
22 that involved the same or similar underling con-
23 duct as the current offense, to be applied in ad-
24 dition to any sentencing enhancement that
25 would otherwise apply pursuant to the calcula-

1 tion of the defendant's criminal history
2 category;

3 (E) consider whether a downward adjust-
4 ment is appropriate if the offense conduct in-
5 volves fewer than 6 documents, or the defend-
6 ant committed the offense other than for profit
7 and the offense was not committed to facilitate
8 an act of international terrorism; and

9 (F) consider whether any other aggravat-
10 ing or mitigating circumstances warrant up-
11 ward or downward sentencing adjustments.

12 (c) EFFECTIVE DATE.—This section and the amend-
13 ments made by this section shall apply with respect to of-
14 fenses occurring on or after the date of the enactment of
15 this Act.

16 **SEC. 128. CRIMINAL PENALTY FOR FALSE STATEMENT IN A**
17 **DOCUMENT REQUIRED UNDER THE IMMIGRA-**
18 **TION LAWS OR KNOWINGLY PRESENTING**
19 **DOCUMENT WHICH FAILS TO CONTAIN REA-**
20 **SONABLE BASIS IN LAW OR FACT.**

21 The fourth undesignated paragraph of section
22 1546(a) of title 18, United States Code, is amended to
23 read as follows:

24 “Whoever knowingly makes under oath, or as per-
25 mitted under penalty of perjury under section 1746 of title

1 28, United States Code, knowingly subscribes as true, any
 2 false statement with respect to a material fact in any ap-
 3 plication, affidavit, or other document required by the im-
 4 migration laws or regulations prescribed thereunder, or
 5 knowingly presents any such application, affidavit, or
 6 other document which contains any such false statement
 7 or which fails to contain any reasonable basis in law or
 8 fact—”.

9 **SEC. 129. NEW CRIMINAL PENALTIES FOR FAILURE TO DIS-**
 10 **CLOSE ROLE AS PREPARER OF FALSE APPLI-**
 11 **CATION FOR ASYLUM OR FOR PREPARING**
 12 **CERTAIN POST-CONVICTION APPLICATIONS.**

13 Section 274C (8 U.S.C. 1324c) is amended by adding
 14 at the end the following new subsection:

15 “(e) CRIMINAL PENALTIES FOR FAILURE TO DIS-
 16 CLOSE ROLE AS DOCUMENT PREPARER.—(1) Whoever, in
 17 any matter within the jurisdiction of the Service under
 18 section 208 of this Act, knowingly and willfully fails to
 19 disclose, conceals, or covers up the fact that they have,
 20 on behalf of any person and for a fee or other remunera-
 21 tion, prepared or assisted in preparing an application
 22 which was falsely made (as defined in subsection (f)) for
 23 immigration benefits pursuant to section 208 of this Act,
 24 or the regulations promulgated thereunder, shall be guilty
 25 of a felony and shall be fined in accordance with title 18,

1 United States Code, imprisoned for not more than 5 years,
 2 or both, and prohibited from preparing or assisting in pre-
 3 paring, whether or not for a fee or other remuneration,
 4 any other such application.

5 “(2) Whoever, having been convicted of a violation
 6 of paragraph (1), knowingly and willfully prepares or as-
 7 sists in preparing an application for immigration benefits
 8 pursuant to this Act, or the regulations promulgated
 9 thereunder, whether or not for a fee or other remuneration
 10 and regardless of whether in any matter within the juris-
 11 diction of the Service under section 208, shall be guilty
 12 of a felony and shall be fined in accordance with title 18,
 13 United States Code, imprisoned for not more than 15
 14 years, or both, and prohibited from preparing or assisting
 15 in preparing any other such application.”.

16 **SEC. 130. NEW DOCUMENT FRAUD OFFENSES; NEW CIVIL**
 17 **PENALTIES FOR DOCUMENT FRAUD.**

18 (a) ACTIVITIES PROHIBITED.—Section 274C(a) (8
 19 U.S.C. 1324c(a)) is amended—

20 (1) in paragraph (1), by inserting before the
 21 comma at the end the following: “or to obtain a ben-
 22 efit under this Act”;

23 (2) in paragraph (2), by inserting before the
 24 comma at the end the following: “or to obtain a ben-
 25 efit under this Act”;

1 (3) in paragraph (3)—

2 (A) by inserting “or with respect to” after
3 “issued to”;

4 (B) by adding before the comma at the end
5 the following: “or obtaining a benefit under this
6 Act”; and

7 (C) by striking “or” at the end;

8 (4) in paragraph (4)—

9 (A) by inserting “or with respect to” after
10 “issued to”;

11 (B) by adding before the period at the end
12 the following: “or obtaining a benefit under this
13 Act”; and

14 (C) by striking the period at the end and
15 inserting “, or”; and

16 (5) by adding at the end the following new
17 paragraphs:

18 “(5) to prepare, file, or assist another in pre-
19 paring or filing, any application for benefits under
20 this Act, or any document required under this Act,
21 or any document submitted in connection with such
22 application or document, with knowledge or in reck-
23 less disregard of the fact that such application or
24 document was falsely made or, in whole or in part,

1 does not relate to the person on whose behalf it was
2 or is being submitted; or

3 “(6) to (A) present before boarding a common
4 carrier for the purpose of coming to the United
5 States a document which relates to the alien’s eligi-
6 bility to enter the United States, and (B) fail to
7 present such document to an immigration officer
8 upon arrival at a United States port of entry.”.

9 (b) DEFINITION OF FALSELY MAKE.—Section 274C
10 (8 U.S.C. 1324c), as amended by section 129 of this Act,
11 is further amended by adding at the end the following new
12 subsection:

13 “(f) FALSELY MAKE.—For purposes of this section,
14 the term ‘falsely make’ means to prepare or provide an
15 application or document, with knowledge or in reckless
16 disregard of the fact that the application or document con-
17 tains a false, fictitious, or fraudulent statement or mate-
18 rial representation, or has no basis in law or fact, or other-
19 wise fails to state a fact which is material to the purpose
20 for which it was submitted.”.

21 (c) CONFORMING AMENDMENT.—Section 274C(d)(3)
22 (8 U.S.C. 1324c(d)(3)) is amended by striking “each doc-
23 ument used, accepted, or created and each instance of use,
24 acceptance, or creation” each place it appears and insert-

1 ing “each document that is the subject of a violation under
2 subsection (a)”.

3 (d) ENHANCED CIVIL PENALTIES FOR DOCUMENT
4 FRAUD IF LABOR STANDARDS VIOLATIONS ARE
5 PRESENT.—Section 274C(d) (8 U.S.C. 1324c(d)) is
6 amended by adding at the end the following new para-
7 graph:

8 “(7) CIVIL PENALTY.—(A) The administrative
9 law judge shall have the authority to require pay-
10 ment of a civil money penalty in an amount up to
11 two times the level of the penalty prescribed by this
12 subsection in any case where the employer has been
13 found to have committed willful or repeated viola-
14 tions of any of the following statutes:

15 “(i) The Fair Labor Standards Act (29
16 U.S.C. 201 et seq.) pursuant to a final deter-
17 mination by the Secretary of Labor or a court
18 of competent jurisdiction.

19 “(ii) The Migrant and Seasonal Agricul-
20 tural Worker Protection Act (29 U.S.C. 1801 et
21 seq.) pursuant to a final determination by the
22 Secretary of Labor or a court of competent ju-
23 risdiction.

24 “(iii) The Family and Medical Leave Act
25 (29 U.S.C. 2601 et seq.) pursuant to a final de-

1 termination by the Secretary of Labor or a
2 court of competent jurisdiction.

3 “(B) The Secretary of Labor and the Attorney
4 General shall consult regarding the administration of
5 this paragraph.”.

6 (e) WAIVER BY ATTORNEY GENERAL.—Section
7 274C(d) (8 U.S.C. 1324c(d)), as amended by subsection
8 (d), is further amended by adding at the end the following
9 new paragraph:

10 “(8) WAIVER BY ATTORNEY GENERAL.—The
11 Attorney General may waive the penalties imposed
12 by this section with respect to an alien who know-
13 ingly violates paragraph (6) if the alien is granted
14 asylum under section 208 or withholding of deporta-
15 tion under section 243(h).”.

16 (f) EFFECTIVE DATE.—

17 (1) DEFINITION OF FALSELY MAKE.—Section
18 274C(f) of the Immigration and Nationality Act, as
19 added by subsection (b), applies to the preparation
20 of applications before, on, or after the date of the
21 enactment of this Act.

22 (2) ENHANCED CIVIL PENALTIES.—The amend-
23 ments made by subsection (d) apply with respect to
24 offenses occurring on or after the date of the enact-
25 ment of this Act.

1 **SEC. 131. NEW EXCLUSION FOR DOCUMENT FRAUD OR FOR**
 2 **FAILURE TO PRESENT DOCUMENTS.**

3 Section 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)) is
 4 amended—

5 (1) by striking “(C) Misrepresentation” and in-
 6 serting the following:

7 “(C) Fraud, misrepresentation, and failure
 8 to present documents”; and

9 (2) by adding at the end the following new
 10 clause:

11 “(iii) FRAUD, MISREPRESENTATION,
 12 AND FAILURE TO PRESENT DOCUMENTS.—

13 “(I) Any alien who, in seeking
 14 entry to the United States or board-
 15 ing a common carrier for the purpose
 16 of coming to the United States, pre-
 17 sents any document which, in the de-
 18 termination of the immigration offi-
 19 cer, is forged, counterfeit, altered,
 20 falsely made, stolen, or inapplicable to
 21 the person presenting the document,
 22 or otherwise contains a misrepresenta-
 23 tion of a material fact, is excludable.

24 “(II) Any alien who is required
 25 to present a document relating to the
 26 alien’s eligibility to enter the United

1 States prior to boarding a common
2 carrier for the purpose of coming to
3 the United States and who fails to
4 present such document to an immi-
5 gration officer upon arrival at a port
6 of entry into the United States is
7 excludable.”.

8 **SEC. 132. LIMITATION ON WITHHOLDING OF DEPORTATION**
9 **AND OTHER BENEFITS FOR ALIENS EXCLUD-**
10 **ABLE FOR DOCUMENT FRAUD OR FAILING TO**
11 **PRESENT DOCUMENTS, OR EXCLUDABLE**
12 **ALIENS APPREHENDED AT SEA.**

13 (a) INELIGIBILITY.—Section 235 (8 U.S.C. 1225) is
14 amended by adding at the end the following new sub-
15 section:

16 “(d)(1) Subject to paragraph (2), any alien who has
17 not been admitted to the United States, and who is exclud-
18 able under section 212(a)(6)(C)(iii) or who is an alien de-
19 scribed in paragraph (3), is ineligible for withholding of
20 deportation pursuant to section 243(h), and may not apply
21 therefor or for any other relief under this Act, except that
22 an alien found to have a credible fear of persecution or
23 of return to persecution in accordance with section 208(e)
24 shall be taken before a special inquiry officer for exclusion
25 proceedings in accordance with section 236 and may apply

1 for asylum, withholding of deportation, or both, in the
2 course of such proceedings.

3 “(2) An alien described in paragraph (1) who has
4 been found ineligible to apply for asylum under section
5 208(e) may be returned under the provisions of this sec-
6 tion only to a country in which (or from which) he or she
7 has no credible fear of persecution (or of return to perse-
8 cution). If there is no country to which the alien can be
9 returned in accordance with the provisions of this para-
10 graph, the alien shall be taken before a special inquiry
11 officer for exclusion proceedings in accordance with sec-
12 tion 236 and may apply for asylum, withholding of depor-
13 tation, or both, in the course of such proceedings.

14 “(3) Any alien who is excludable under section
15 212(a), and who has been brought or escorted under the
16 authority of the United States—

17 “(A) into the United States, having been on
18 board a vessel encountered seaward of the territorial
19 sea by officers of the United States; or

20 “(B) to a port of entry, having been on board
21 a vessel encountered within the territorial sea or in-
22 ternal waters of the United States;

23 shall either be detained on board the vessel on which such
24 person arrived or in such facilities as are designated by
25 the Attorney General or paroled in the discretion of the

1 Attorney General pursuant to section 212(d)(5) pending
 2 accomplishment of the purpose for which the person was
 3 brought or escorted into the United States or to the port
 4 of entry, except that no alien shall be detained on board
 5 a public vessel of the United States without the concur-
 6 rence of the head of the department under whose authority
 7 the vessel is operating.”.

8 (b) CONFORMING AMENDMENTS.—Section 237(a) (8
 9 U.S.C. 1227(a)) is amended—

10 (1) in the second sentence of paragraph (1), by
 11 striking “Deportation” and inserting “Subject to
 12 section 235(d)(2), deportation”; and

13 (2) in the first sentence of paragraph (2), by
 14 striking “If” and inserting “Subject to section
 15 235(d)(2), if”.

16 **SEC. 133. PENALTIES FOR INVOLUNTARY SERVITUDE.**

17 (a) AMENDMENTS TO TITLE 18.—Sections 1581,
 18 1583, 1584, and 1588 of title 18, United States Code,
 19 are amended by striking “five” each place it appears and
 20 inserting “10”.

21 (b) REVIEW OF SENTENCING GUIDELINES.—The
 22 United States Sentencing Commission shall ascertain
 23 whether there exists an unwarranted disparity—

24 (1) between the sentences for peonage, involun-
 25 tary servitude, and slave trade offenses, and the sen-

1 tences for kidnapping offenses in effect on the date
2 of the enactment of this Act; and

3 (2) between the sentences for peonage, involun-
4 tary servitude, and slave trade offenses, and the sen-
5 tences for alien smuggling offenses in effect on the
6 date of the enactment of this Act and after the
7 amendment made by subsection (a).

8 (c) AMENDMENT OF SENTENCING GUIDELINES.—

9 Pursuant to its authority under section 994(p) of title 28,
10 United States Code, the United States Sentencing Com-
11 mission shall review its guidelines on sentencing for peon-
12 age, involuntary servitude, and slave trade offenses under
13 sections 1581 through 1588 of title 18, United States
14 Code, and shall amend such guidelines as necessary to—

15 (1) reduce or eliminate any unwarranted dis-
16 parity found under subsection (b) that exists be-
17 tween the sentences for peonage, involuntary ser-
18 vitude, and slave trade offenses, and the sentences
19 for kidnapping offenses and alien smuggling
20 offenses;

21 (2) ensure that the applicable guidelines for de-
22 fendants convicted of peonage, involuntary servitude,
23 and slave trade offenses are sufficiently stringent to
24 deter such offenses and adequately reflect the hei-
25 nous nature of such offenses; and

1 (3) ensure that the guidelines reflect the gen-
 2 eral appropriateness of enhanced sentences for de-
 3 fendants whose peonage, involuntary servitude, or
 4 slave trade offenses involve—

5 (A) a large number of victims;

6 (B) the use or threatened use of a dan-
 7 gerous weapon; or

8 (C) a prolonged period of peonage or invol-
 9 untary servitude.

10 **SEC. 134. EXCLUSION RELATING TO MATERIAL SUPPORT**
 11 **TO TERRORISTS.**

12 Section 212(a)(3)(B)(iii)(III) (8 U.S.C.
 13 1182(a)(3)(B)(iii)(III)) is amended by inserting “docu-
 14 mentation or” before “identification”.

15 **PART 4—EXCLUSION AND DEPORTATION**

16 **SEC. 141. SPECIAL EXCLUSION PROCEDURE.**

17 (a) ARRIVALS FROM CONTIGUOUS FOREIGN TERRI-
 18 TORY.—Section 235 (8 U.S.C. 1225) is amended—

19 (1) by redesignating subsection (b) as sub-
 20 section (b)(1); and

21 (2) by adding at the end of subsection (b)(1),
 22 as redesignated, the following new paragraph:

23 “(2) If an alien subject to such further inquiry has
 24 arrived from a foreign territory contiguous to the United
 25 States, either at a land port of entry or on the land of

1 the United States other than at a designated port of entry,
 2 the alien may be returned to that territory pending the
 3 inquiry.”.

4 (b) SPECIAL ORDERS OF EXCLUSION AND DEPORTA-
 5 TION.—Section 235 (8 U.S.C. 1225), as amended by sec-
 6 tion 132 of this Act, is further amended by adding at the
 7 end the following:

8 “(e)(1) Notwithstanding the provisions of subsection
 9 (b) of this section and section 236, the Attorney General
 10 may, without referral to a special inquiry officer or after
 11 such a referral, order the exclusion and deportation of any
 12 alien if—

13 “(A) the alien appears to an examining immi-
 14 gration officer, or to a special inquiry officer if such
 15 referral is made, to be an alien who—

16 “(i) has entered the United States without
 17 having been inspected and admitted by an im-
 18 migration officer pursuant to this section, un-
 19 less such alien affirmatively demonstrates to the
 20 satisfaction of such immigration officer or spe-
 21 cial inquiry officer that he has been physically
 22 present in the United States for an uninter-
 23 rupted period of at least two years since such
 24 entry without inspection;

1 “(ii) is excludable under section
2 212(a)(6)(C)(iii);

3 “(iii) is brought or escorted under the au-
4 thority of the United States into the United
5 States, having been on board a vessel encoun-
6 tered outside of the territorial waters of the
7 United States by officers of the United States;

8 “(iv) is brought or escorted under the au-
9 thority of the United States to a port of entry,
10 having been on board a vessel encountered with-
11 in the territorial sea or internal waters of the
12 United States; or

13 “(v) has arrived on a vessel transporting
14 aliens to the United States without such alien
15 having received prior official authorization to
16 come to, enter, or reside in the United States;
17 or

18 “(B) the Attorney General has determined that
19 the numbers or circumstances of aliens en route to
20 or arriving in the United States, by land, sea, or air,
21 present an extraordinary migration situation.

22 “(2) As used in this section, the phrase ‘extraor-
23 dinary migration situation’ means the arrival or imminent
24 arrival in the United States or its territorial waters of
25 aliens who by their numbers or circumstances substan-

1 tially exceed the capacity for the inspection and examina-
2 tion of such aliens.

3 “(3)(A) Subject to subparagraph (B), the determina-
4 tion of whether there exists an extraordinary migration
5 situation or whether to invoke the provisions of paragraph
6 (1) (A) or (B) is committed to the sole and exclusive dis-
7 cretion of the Attorney General.

8 “(B) The provisions of this subsection may be in-
9 voked under paragraph (1)(B) for a period not to exceed
10 90 days, unless, within such 90-day period or an extension
11 thereof authorized by this subparagraph, the Attorney
12 General determines, after consultation with the Commit-
13 tees on the Judiciary of the Senate and the House of Rep-
14 resentatives, that an extraordinary migration situation
15 continues to warrant such procedures remaining in effect
16 for an additional 90-day period.

17 “(4) When the Attorney General invokes the provi-
18 sions of clause (iii), (iv), or (v) of paragraph (1)(A) or
19 paragraph (1)(B), the Attorney General may, pursuant to
20 this section and sections 235(e) and 106(f), suspend, in
21 whole or in part, the operation of immigration regulations
22 regarding the inspection and exclusion of aliens.

23 “(5) No alien may be ordered specially excluded
24 under paragraph (1) if—

1 “(A) such alien is eligible to seek, and seeks,
2 asylum under section 208; and

3 “(B) the Attorney General determines, in the
4 procedure described in section 208(e), that such
5 alien has a credible fear of persecution on account
6 of race, religion, nationality, membership in a par-
7 ticular social group, or political opinion, in the coun-
8 try of such person’s nationality, or in the case of a
9 person having no nationality, the country in which
10 such person last habitually resided.

11 An alien may be returned to a country in which the alien
12 does not have a credible fear of persecution and from
13 which the alien does not have a credible fear of return
14 to persecution.

15 “(6) A special exclusion order entered in accordance
16 with the provisions of this subsection is not subject to ad-
17 ministrative review, except that the Attorney General shall
18 provide by regulation for prompt review of such an order
19 against an applicant who claims under oath, or as per-
20 mitted under penalty of perjury under section 1746 of title
21 28, United States Code, after having been warned of the
22 penalties for falsely making such claim under such condi-
23 tions, to be, and appears to be, lawfully admitted for per-
24 manent residence.

1 “(7) A special exclusion order entered in accordance
 2 with the provisions of this subsection shall have the same
 3 effect as if the alien had been ordered excluded and de-
 4 ported pursuant to section 236, except that judicial review
 5 of such an order shall be available only under section
 6 106(f).

7 “(8) Nothing in this subsection may be construed as
 8 requiring an inquiry before a special inquiry officer in the
 9 case of an alien crewman.”.

10 **SEC. 142. STREAMLINING JUDICIAL REVIEW OF ORDERS OF**
 11 **EXCLUSION OR DEPORTATION.**

12 (a) IN GENERAL.—Section 106 (8 U.S.C. 1105a) is
 13 amended to read as follows:

14 “JUDICIAL REVIEW OF ORDERS OF DEPORTATION,
 15 EXCLUSION, AND SPECIAL EXCLUSION

16 “SEC. 106. (a) APPLICABLE PROVISIONS.—Except as
 17 provided in subsection (b), judicial review of a final order
 18 of exclusion or deportation is governed only by chapter
 19 158 of title 28 of the United States Code, but in no such
 20 review may a court order the taking of additional evidence
 21 pursuant to section 2347(c) of title 28, United States
 22 Code.

23 “(b) REQUIREMENTS.—(1)(A) A petition for judicial
 24 review must be filed not later than 30 days after the date
 25 of the final order of exclusion or deportation, except that
 26 in the case of any specially deportable criminal alien (as

1 defined in section 242(k)), there shall be no judicial review
2 of any final order of deportation.

3 “(B) The alien shall serve and file a brief in connec-
4 tion with a petition for judicial review not later than 40
5 days after the date on which the administrative record is
6 available, and may serve and file a reply brief not later
7 than 14 days after service of the brief of the Attorney
8 General, and the court may not extend these deadlines ex-
9 cept upon motion for good cause shown.

10 “(C) If an alien fails to file a brief in connection with
11 a petition for judicial review within the time provided in
12 this paragraph, the Attorney General may move to dismiss
13 the appeal, and the court shall grant such motion unless
14 a manifest injustice would result.

15 “(2) A petition for judicial review shall be filed with
16 the court of appeals for the judicial circuit in which the
17 special inquiry officer completed the proceedings.

18 “(3) The respondent of a petition for judicial review
19 shall be the Attorney General. The petition shall be served
20 on the Attorney General and on the officer or employee
21 of the Immigration and Naturalization Service in charge
22 of the Service district in which the final order of exclusion
23 or deportation was entered. Service of the petition on the
24 officer or employee does not stay the deportation of an

1 alien pending the court’s decision on the petition, unless
2 the court orders otherwise.

3 “(4)(A) Except as provided in paragraph (5)(B), the
4 court of appeals shall decide the petition only on the ad-
5 ministrative record on which the order of exclusion or de-
6 portation is based and the Attorney General’s findings of
7 fact shall be conclusive unless a reasonable adjudicator
8 would be compelled to conclude to the contrary.

9 “(B) The Attorney General’s discretionary judgment
10 whether to grant relief under section 212 (c) or (i), 244
11 (a) or (d), or 245 shall be conclusive and shall not be sub-
12 ject to review.

13 “(C) The Attorney General’s discretionary judgment
14 whether to grant relief under section 208(a) shall be con-
15 clusive unless manifestly contrary to law and an abuse of
16 discretion.

17 “(5)(A) If the petitioner claims to be a national of
18 the United States and the court of appeals finds from the
19 pleadings and affidavits that no genuine issue of material
20 fact about the petitioner’s nationality is presented, the
21 court shall decide the nationality claim.

22 “(B) If the petitioner claims to be a national of the
23 United States and the court of appeals finds that a genu-
24 ine issue of material fact about the petitioner’s nationality
25 is presented, the court shall transfer the proceeding to the

1 district court of the United States for the judicial district
2 in which the petitioner resides for a new hearing on the
3 nationality claim and a decision on that claim as if an
4 action had been brought in the district court under section
5 2201 of title 28, United States Code.

6 “(C) The petitioner may have the nationality claim
7 decided only as provided in this section.

8 “(6)(A) If the validity of an order of deportation has
9 not been judicially decided, a defendant in a criminal pro-
10 ceeding charged with violating subsection (d) or (e) of sec-
11 tion 242 may challenge the validity of the order in the
12 criminal proceeding only by filing a separate motion before
13 trial. The district court, without a jury, shall decide the
14 motion before trial.

15 “(B) If the defendant claims in the motion to be a
16 national of the United States and the district court finds
17 that no genuine issue of material fact about the defend-
18 ant’s nationality is presented, the court shall decide the
19 motion only on the administrative record on which the de-
20 portation order is based. The administrative findings of
21 fact are conclusive if supported by reasonable, substantial,
22 and probative evidence on the record considered as a
23 whole.

24 “(C) If the defendant claims in the motion to be a
25 national of the United States and the district court finds

1 that a genuine issue of material fact about the defendant's
2 nationality is presented, the court shall hold a new hearing
3 on the nationality claim and decide that claim as if an
4 action had been brought under section 2201 of title 28,
5 United States Code.

6 “(D) If the district court rules that the deportation
7 order is invalid, the court shall dismiss the indictment.
8 The United States Government may appeal the dismissal
9 to the court of appeals for the appropriate circuit within
10 30 days. The defendant may not file a petition for review
11 under this section during the criminal proceeding. The de-
12 fendant may have the nationality claim decided only as
13 provided in this section.

14 “(7) This subsection—

15 “(A) does not prevent the Attorney General,
16 after a final order of deportation has been issued,
17 from detaining the alien under section 242(c);

18 “(B) does not relieve the alien from complying
19 with subsection (d) or (e) of section 242; and

20 “(C) except as provided in paragraph (3), does
21 not require the Attorney General to defer deporta-
22 tion of the alien.

23 “(8) The record and briefs do not have to be printed.
24 The court of appeals shall review the proceeding on a type-
25 written record and on typewritten briefs.

1 “(c) REQUIREMENTS FOR PETITION.—A petition for
 2 review of an order of exclusion or deportation shall state
 3 whether a court has upheld the validity of the order, and,
 4 if so, shall state the name of the court, the date of the
 5 court’s ruling, and the kind of proceeding.

6 “(d) REVIEW OF FINAL ORDERS.—

7 “(1) A court may review a final order of exclu-
 8 sion or deportation only if—

9 “(A) the alien has exhausted all adminis-
 10 trative remedies available to the alien as a mat-
 11 ter of right; and

12 “(B) another court has not decided the va-
 13 lidity of the order, unless, subject to paragraph
 14 (2), the reviewing court finds that the petition
 15 presents grounds that could not have been pre-
 16 sented in the prior judicial proceeding or that
 17 the remedy provided by the prior proceeding
 18 was inadequate or ineffective to test the validity
 19 of the order.

20 “(2) Nothing in paragraph (1)(B) may be con-
 21 strued as creating a right of review if such review
 22 would be inconsistent with subsection (e), (f), or (g),
 23 or any other provision of this section.

24 “(e) NO JUDICIAL REVIEW FOR ORDERS OF DEPOR-
 25 TATION OR EXCLUSION ENTERED AGAINST CERTAIN

1 CRIMINAL ALIENS.—Notwithstanding any other provision
 2 of law, any order of exclusion or deportation against an
 3 alien who is excludable or deportable by reason of having
 4 committed any criminal offense described in subparagraph
 5 (A)(iii), (B), (C), or (D) of section 241(a)(2), or two or
 6 more offenses described in section 241(a)(2)(A)(ii), at
 7 least two of which resulted in a sentence or confinement
 8 described in section 241(a)(2)(A)(i)(II), is not subject to
 9 review by any court.

10 “(f) LIMITED REVIEW FOR SPECIAL EXCLUSION AND
 11 DOCUMENT FRAUD.—(1) Notwithstanding any other pro-
 12 vision of law, except as provided in this subsection, no
 13 court shall have jurisdiction to review any individual deter-
 14 mination or to hear any other cause of action or claim
 15 arising from or relating to the implementation or oper-
 16 ation of sections 208(e), 212(a)(6)(iii), 235(d), and
 17 235(e).

18 “(2)(A) Except as provided in this subsection, there
 19 shall be no judicial review of—

20 “(i) a decision by the Attorney General to in-
 21 voke the provisions of section 235(e);

22 “(ii) the application of section 235(e) to individ-
 23 ual aliens, including the determination made under
 24 paragraph (5); or

1 “(iii) procedures and policies adopted by the At-
2 torney General to implement the provisions of sec-
3 tion 235(e).

4 “(B) Without regard to the nature of the action or
5 claim, or the identity of the party or parties bringing the
6 action, no court shall have jurisdiction or authority to
7 enter declaratory, injunctive, or other equitable relief not
8 specifically authorized in this subsection, or to certify a
9 class under Rule 23 of the Federal Rules of Civil Proce-
10 dure.

11 “(3) Judicial review of any cause, claim, or individual
12 determination made or arising under or relating to section
13 208(e), 212(a)(6)(iii), 235(d), or 235(e) shall only be
14 available in a habeas corpus proceeding, and shall be lim-
15 ited to determinations of—

16 “(A) whether the petitioner is an alien;

17 “(B) whether the petitioner was ordered spe-
18 cially excluded; and

19 “(C) whether the petitioner can prove by a pre-
20 ponderance of the evidence that he or she is an alien
21 lawfully admitted for permanent residence and is en-
22 titled to such further inquiry as is prescribed by the
23 Attorney General pursuant to section 235(e)(6).

24 “(4)(A) In any case where the court determines that
25 the petitioner—

1 “(i) is an alien who was not ordered specially
2 excluded under section 235(e), or

3 “(ii) has demonstrated by a preponderance of
4 the evidence that he or she is a lawful permanent
5 resident,

6 the court may order no remedy or relief other than to re-
7 quire that the petitioner be provided a hearing in accord-
8 ance with section 236 or a determination in accordance
9 with section 235(c) or 273(d).

10 “(B) Any alien who is provided a hearing under sec-
11 tion 236 pursuant to these provisions may thereafter ob-
12 tain judicial review of any resulting final order of exclusion
13 pursuant to this section.

14 “(5) In determining whether an alien has been or-
15 dered specially excluded under section 235(e), the court’s
16 inquiry shall be limited to whether such an order in fact
17 was issued and whether it relates to the petitioner. There
18 shall be no review of whether the alien is actually exclud-
19 able or entitled to any relief from exclusion.

20 “(g) NO COLLATERAL ATTACK.—In any action
21 brought for the assessment of penalties for improper entry
22 or reentry of an alien under section 275 or 276, no court
23 shall have jurisdiction to hear claims attacking the validity
24 of orders of exclusion, special exclusion, or deportation en-
25 tered under section 235, 236, or 242.”.

1 (b) RESCISSION OF ORDER.—Section 242B(c)(3) (8
 2 U.S.C. 1252b(c)(3)) is amended by striking the period at
 3 the end and inserting “by the special inquiry officer, but
 4 there shall be no stay pending further administrative or
 5 judicial review, unless ordered because of individually com-
 6 pelling circumstances.”.

7 (c) CLERICAL AMENDMENT.—The table of contents
 8 of the Act is amended by amending the item relating to
 9 section 106 to read as follows:

“Sec. 106. Judicial review of orders of deportation, exclusion, and special exclu-
 sion.”.

10 (d) EFFECTIVE DATE.—The amendments made by
 11 subsections (a) and (b) shall apply to all final orders of
 12 exclusion or deportation entered, and motions to reopen
 13 filed, on or after the date of the enactment of this Act.

14 **SEC. 143. CIVIL PENALTIES AND VISA INELIGIBILITY, FOR**
 15 **FAILURE TO DEPART.**

16 (a) ALIENS SUBJECT TO AN ORDER OF EXCLUSION
 17 OR DEPORTATION.—The Immigration and Nationality Act
 18 is amended by inserting after section 274C (8 U.S.C.
 19 1324c) the following new section:

20 “CIVIL PENALTIES FOR FAILURE TO DEPART

21 “SEC. 274D. (a) Any alien subject to a final order
 22 of exclusion and deportation or deportation who—

23 “(1) willfully fails or refuses to—

1 “(A) depart on time from the United
2 States pursuant to the order;

3 “(B) make timely application in good faith
4 for travel or other documents necessary for de-
5 parture; or

6 “(C) present himself or herself for deporta-
7 tion at the time and place required by the At-
8 torney General; or

9 “(2) conspires to or takes any action designed
10 to prevent or hamper the alien’s departure pursuant
11 to the order,

12 shall pay a civil penalty of not more than \$500 to the
13 Commissioner for each day the alien is in violation of this
14 section.

15 “(b) The Commissioner shall deposit amounts re-
16 ceived under subsection (a) as offsetting collections in the
17 appropriate appropriations account of the Service.

18 “(c) Nothing in this section shall be construed to di-
19 minish or qualify any penalties to which an alien may be
20 subject for activities proscribed by section 242(e) or any
21 other section of this Act.”.

22 (b) VISA OVERSTAYER.—The Immigration and Na-
23 tionality Act is amended in section 212 (8 U.S.C. 1182)
24 by inserting the following new subsection:

1 “(p)(1) Any lawfully admitted nonimmigrant who re-
2 mains in the United States for more than 60 days beyond
3 the period authorized by the Attorney General shall be in-
4 eligible for additional nonimmigrant or immigrant visas
5 (other than visas available for spouses of United States
6 citizens or aliens lawfully admitted for permanent resi-
7 dence) until the date that is—

8 “(A) 3 years after the date the nonimmigrant
9 departs the United States in the case of a non-
10 immigrant not described in paragraph (2); or

11 “(B) 5 years after the date the nonimmigrant
12 departs the United States in the case of a non-
13 immigrant who without reasonable cause fails or re-
14 fuses to attend or remain in attendance at a pro-
15 ceeding to determine the nonimmigrant’s deportabil-
16 ity.

17 “(2)(A) Paragraph (1) shall not apply to any lawfully
18 admitted nonimmigrant who is described in paragraph
19 (1)(A) and who demonstrates good cause for remaining
20 in the United States for the entirety of the period (other
21 than the first 60 days) during which the nonimmigrant
22 remained in the United States without the authorization
23 of the Attorney General.

1 “(B) A final order of deportation shall not be stayed
 2 on the basis of a claim of good cause made under this
 3 subsection.

4 “(3) The Attorney General shall by regulation estab-
 5 lish procedures necessary to implement this section.”.

6 (c) EFFECTIVE DATE.—Subsection (b) shall take ef-
 7 fect on the date of implementation of the automated entry-
 8 exit control system described in section 201, or on the date
 9 that is 2 years after the date of enactment of this Act,
 10 whichever is earlier.

11 (d) AMENDMENTS TO TABLE OF CONTENTS.—The
 12 table of contents of the Act is amended by inserting after
 13 the item relating to section 274C the following:

“Sec. 274D. Civil penalties for failure to depart.”.

14 **SEC. 144. CONDUCT OF PROCEEDINGS BY ELECTRONIC**
 15 **MEANS.**

16 Section 242(b) (8 U.S.C. 1252(b)) is amended by in-
 17 serting at the end the following new sentences: “Nothing
 18 in this subsection precludes the Attorney General from au-
 19 thorizing proceedings by video electronic media, by tele-
 20 phone, or, where a requirement for the alien’s appearance
 21 is waived or the alien’s absence is agreed to by the parties,
 22 in the absence of the alien. Contested full evidentiary hear-
 23 ings on the merits may be conducted by telephone only
 24 with the consent of the alien.”.

1 **SEC. 145. SUBPOENA AUTHORITY.**

2 (a) EXCLUSION PROCEEDINGS.—Section 236(a) (8
3 U.S.C. 1226(a)) is amended in the first sentence by insert-
4 ing “issue subpoenas,” after “evidence,”.

5 (b) DEPORTATION PROCEEDINGS.—Section 242(b)
6 (8 U.S.C. 1252(b)) is amended in the first sentence by
7 inserting “issue subpoenas,” after “evidence,”.

8 **SEC. 146. LANGUAGE OF DEPORTATION NOTICE; RIGHT TO**
9 **COUNSEL.**

10 (a) LANGUAGE OF NOTICE.—Section 242B (8 U.S.C.
11 1252b) is amended in subsection (a)(3) by striking “under
12 this subsection” and all that follows through “(B)” and
13 inserting “under this subsection”.

14 (b) PRIVILEGE OF COUNSEL.—(1) Section
15 242B(b)(1) (8 U.S.C. 1252b(b)(1)) is amended by insert-
16 ing before the period at the end the following: “, except
17 that a hearing may be scheduled as early as 3 days after
18 the service of the order to show cause if the alien has been
19 continued in custody subject to section 242”.

20 (2) The parenthetical phrase in section 292 (8 U.S.C.
21 1362) is amended to read as follows: “(at no expense to
22 the Government or unreasonable delay to the proceed-
23 ings)”.

24 (3) Section 242B(b) (8 U.S.C. 1252b(b)) is further
25 amended by inserting at the end the following new para-
26 graph:

1 “(3) RULE OF CONSTRUCTION.—Nothing in
 2 this subsection may be construed to prevent the At-
 3 torney General from proceeding against an alien
 4 pursuant to section 242 if the time period described
 5 in paragraph (1) has elapsed and the alien has failed
 6 to secure counsel.”.

7 **SEC. 147. ADDITION OF NONIMMIGRANT VISAS TO TYPES**
 8 **OF VISA DENIED FOR COUNTRIES REFUSING**
 9 **TO ACCEPT DEPORTED ALIENS.**

10 (a) IN GENERAL.—Section 243(g) (8 U.S.C.
 11 1253(g)) is amended to read as follows:

12 “(g)(1) If the Attorney General determines that any
 13 country upon request denies or unduly delays acceptance
 14 of the return of any alien who is a national, citizen, sub-
 15 ject, or resident thereof, the Attorney General shall notify
 16 the Secretary of such fact, and thereafter, subject to para-
 17 graph (2), neither the Secretary of State nor any consular
 18 officer shall issue an immigrant or nonimmigrant visa to
 19 any national, citizen, subject, or resident of such country.

20 “(2) The Secretary of State may waive the applica-
 21 tion of paragraph (1) if the Secretary determines that
 22 such a waiver is necessary to comply with the terms of
 23 a treaty or international agreement or is in the national
 24 interest of the United States.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to countries for which the Sec-
3 retary of State gives instructions to United States con-
4 sular officers on or after the date of the enactment of this
5 Act.

6 **SEC. 148. AUTHORIZATION OF SPECIAL FUND FOR COSTS**
7 **OF DEPORTATION.**

8 In addition to any other funds otherwise available in
9 any fiscal year for such purpose, there are authorized to
10 be appropriated to the Immigration and Naturalization
11 Service \$10,000,000 for use without fiscal year limitation
12 for the purpose of—

13 (1) executing final orders of deportation pursu-
14 ant to sections 242 and 242A of the Immigration
15 and Nationality Act (8 U.S.C. 1252 and 1252a);
16 and

17 (2) detaining aliens prior to the execution of
18 final orders of deportation issued under such sec-
19 tions.

20 **SEC. 149. PILOT PROGRAM TO INCREASE EFFICIENCY IN**
21 **REMOVAL OF DETAINED ALIENS.**

22 (a) AUTHORITY.—The Attorney General shall con-
23 duct one or more pilot programs to study methods for in-
24 creasing the efficiency of deportation and exclusion pro-
25 ceedings against detained aliens by increasing the avail-

1 ability of pro bono counseling and representation for such
 2 aliens. Any such pilot program may provide for adminis-
 3 trative grants to not-for-profit organizations involved in
 4 the counseling and representation of aliens in immigration
 5 proceedings. An evaluation component shall be included in
 6 any such pilot program to test the efficiency and cost-ef-
 7 fectiveness of the services provided and the replicability
 8 of such programs at other locations.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 10 are authorized to be appropriated to the Department of
 11 Justice such sums as may be necessary to carry out the
 12 program or programs described in subsection (a).

13 (c) STATUTORY CONSTRUCTION.—Nothing in this
 14 section may be construed as creating a right for any alien
 15 to be represented in any exclusion or deportation proceed-
 16 ing at the expense of the Government.

17 **SEC. 150. LIMITATIONS ON RELIEF FROM EXCLUSION AND**
 18 **DEPORTATION.**

19 (a) LIMITATION.—Section 212(c) (8 U.S.C. 1182(c))
 20 is amended to read as follows:

21 “(c)(1) Subject to paragraphs (2) through (5), an
 22 alien who is and has been lawfully admitted for permanent
 23 residence for at least 5 years, who has resided in the Unit-
 24 ed States continuously for 7 years after having been law-
 25 fully admitted, and who is returning to such residence

1 after having temporarily proceeded abroad voluntarily and
 2 not under an order of deportation, may be admitted in
 3 the discretion of the Attorney General without regard to
 4 the provisions of subsection (a) (other than paragraphs
 5 (3) and (9)(C)).

6 “(2) For purposes of this subsection, any period of
 7 continuous residence shall be deemed to end when the
 8 alien is placed in proceedings to exclude or deport the alien
 9 from the United States.

10 “(3) Nothing contained in this subsection shall limit
 11 the authority of the Attorney General to exercise the dis-
 12 cretion authorized under section 211(b).

13 “(4) Paragraph (1) shall not apply to an alien who
 14 has been convicted of one or more aggravated felonies and
 15 has been sentenced for such felony or felonies to a term
 16 or terms of imprisonment totalling, in the aggregate, at
 17 least 5 years.

18 “(5) This subsection shall apply only to an alien in
 19 proceedings under section 236.”.

20 (b) CANCELLATION OF DEPORTATION.—Section 244
 21 (8 U.S.C. 1254) is amended to read as follows:

22 “CANCELLATION OF DEPORTATION; ADJUSTMENT OF
 23 STATUS; VOLUNTARY DEPARTURE

24 “SEC. 244. (a) CANCELLATION OF DEPORTATION.—
 25 (1) The Attorney General may, in the Attorney General’s

1 discretion, cancel deportation in the case of an alien who
2 is deportable from the United States and—

3 “(A) is, and has been for at least 5 years, a
4 lawful permanent resident; has resided in the United
5 States continuously for not less than 7 years after
6 being lawfully admitted; and has not been convicted
7 of an aggravated felony or felonies for which the
8 alien has been sentenced to a term or terms of im-
9 prisonment totaling, in the aggregate, at least 5
10 years;

11 “(B) has been physically present in the United
12 States for a continuous period of not less than 7
13 years since entering the United States; has been a
14 person of good moral character during such period;
15 and establishes that deportation would result in ex-
16 treme hardship to the alien or the alien’s spouse,
17 parent, or child, who is a citizen or national of the
18 United States or an alien lawfully admitted for per-
19 manent residence;

20 “(C) has been physically present in the United
21 States for a continuous period of not less than three
22 years since entering the United States; has been bat-
23 tered or subjected to extreme cruelty in the United
24 States by a spouse or parent who is a United States
25 citizen or lawful permanent resident (or is the par-

1 ent of a child who is a United States citizen or law-
2 ful permanent resident and the child has been bat-
3 tered or subjected to extreme cruelty in the United
4 States by such citizen or permanent resident par-
5 ent); has been a person of good moral character dur-
6 ing all of such period in the United States; and es-
7 tablishes that deportation would result in extreme
8 hardship to the alien or the alien's parent or child;
9 or

10 “(D) is deportable under paragraph (2) (A),
11 (B), or (D), or paragraph (3) of section 241(a); has
12 been physically present in the United States for a
13 continuous period of not less than 10 years imme-
14 diately following the commission of an act, or the as-
15 sumption of a status, constituting a ground for de-
16 portation, and proves that during all of such period
17 he has been a person of good moral character; and
18 is a person whose deportation would, in the opinion
19 of the Attorney General, result in exceptional and
20 extremely unusual hardship to the alien or to his
21 spouse, parent, or child, who is a citizen of the Unit-
22 ed States or an alien lawfully admitted for perma-
23 nent residence.

24 “(2)(A) For purposes of paragraph (1), any period
25 of continuous residence or continuous physical presence in

1 the United States shall be deemed to end when the alien
2 is served an order to show cause pursuant to section 242
3 or 242B.

4 “(B) An alien shall be considered to have failed to
5 maintain continuous physical presence in the United
6 States under paragraph (1) (B), (C), or (D) if the alien
7 was absent from the United States for any single period
8 of more than 90 days or an aggregate period of more than
9 180 days.

10 “(C) A person who is deportable under section
11 241(a)(2)(C) or 241(a)(4) shall not be eligible for relief
12 under this section.

13 “(D) A person who is deportable under section
14 241(a)(2) (A), (B), or (D) or section 241(a)(3) shall not
15 be eligible for relief under paragraph (1) (A), (B), or (C).

16 “(E) A person who has been convicted of an aggra-
17 vated felony shall not be eligible for relief under paragraph
18 (1) (B), or (C), (D).

19 “(F) A person who is deportable under section
20 241(a)(1)(G) shall not be eligible for relief under para-
21 graph (1)(C).

22 “(b) CONTINUOUS PHYSICAL PRESENCE NOT RE-
23 QUIRED BECAUSE OF HONORABLE SERVICE IN ARMED
24 FORCES AND PRESENCE UPON ENTRY INTO SERVICE.—
25 The requirements of continuous residence or continuous

1 physical presence in the United States specified in sub-
 2 section (a)(1) (A) and (B) shall not be applicable to an
 3 alien who—

4 “(1) has served for a minimum period of 24
 5 months in an active-duty status in the Armed Forces
 6 of the United States and, if separated from such
 7 service, was separated under honorable conditions,
 8 and

9 “(2) at the time of his or her enlistment or in-
 10 duction, was in the United States.

11 “(c) ADJUSTMENT OF STATUS.—The Attorney Gen-
 12 eral may cancel deportation and adjust to the status of
 13 an alien lawfully admitted for permanent residence any
 14 alien who the Attorney General determines meets the re-
 15 quirements of subsection (a)(1) (B), (C), or (D). The At-
 16 torney General shall record the alien’s lawful admission
 17 for permanent residence as of the date the Attorney Gen-
 18 eral decides to cancel such alien’s removal.

19 “(d) ALIEN CREWMEN; NONIMMIGRANT EXCHANGE
 20 ALIENS ADMITTED TO RECEIVE GRADUATE MEDICAL
 21 EDUCATION OR TRAINING; OTHER.—The provisions of
 22 subsection (a) shall not apply to an alien who—

23 “(1) entered the United States as a crewman
 24 after June 30, 1964;

1 “(2) was admitted to the United States as a
2 nonimmigrant alien described in section
3 101(a)(15)(J), or has acquired the status of such a
4 nonimmigrant alien after admission, in order to re-
5 ceive graduate medical education or training, with-
6 out regard to whether or not the alien is subject to
7 or has fulfilled the two-year foreign residence re-
8 quirement of section 212(e); or

9 “(3)(A) was admitted to the United States as
10 a nonimmigrant alien described in section
11 101(a)(15)(J), or has acquired the status of such a
12 nonimmigrant alien after admission, other than to
13 receive graduate medical education or training;

14 “(B) is subject to the two-year foreign residence
15 requirement of section 212(e); and

16 “(C) has not fulfilled that requirement or re-
17 ceived a waiver thereof, or, in the case of a foreign
18 medical graduate who has received a waiver pursu-
19 ant to section 220 of the Immigration and National-
20 ity Technical Corrections Act of 1994 (Public Law
21 103–416), has not fulfilled the requirements of sec-
22 tion 214(k).

23 “(e) VOLUNTARY DEPARTURE.—(1)(A) The Attorney
24 General may permit an alien voluntarily to depart the
25 United States at the alien’s own expense—

1 “(i) in lieu of being subject to deportation pro-
2 ceedings under section 242 or prior to the comple-
3 tion of such proceedings, if the alien is not a person
4 deportable under section 241(a)(2)(A)(iii) or section
5 241(a)(4); or

6 “(ii) after the completion of deportation pro-
7 ceedings under section 242, only if a special inquiry
8 officer determines that—

9 “(I) the alien is, and has been for at least
10 5 years immediately preceding the alien’s appli-
11 cation for voluntary departure, a person of good
12 moral character;

13 “(II) the alien is not deportable under sec-
14 tion 241(a)(2)(A)(iii) or section 241(a)(4); and

15 “(III) the alien establishes by clear and
16 convincing evidence that the alien has the
17 means to depart the United States and intends
18 to do so.

19 “(B)(i) In the case of departure pursuant to subpara-
20 graph (A)(i), the Attorney General may require the alien
21 to post a voluntary departure bond, to be surrendered
22 upon proof that the alien has departed the United States
23 within the time specified.

24 “(ii) If any alien who is authorized to depart volun-
25 tarily under this paragraph is financially unable to depart

1 at the alien's own expense and the Attorney General
2 deems the alien's removal to be in the best interest of the
3 United States, the expense of such removal may be paid
4 from the appropriation for enforcement of this Act.

5 “(C) In the case of departure pursuant to subpara-
6 graph (A)(ii), the alien shall be required to post a vol-
7 untary departure bond, in an amount necessary to ensure
8 that the alien will depart, to be surrendered upon proof
9 that the alien has departed the United States within the
10 time specified.

11 “(2) If the alien fails voluntarily to depart the United
12 States within the time period specified in accordance with
13 paragraph (1), the alien shall be subject to a civil penalty
14 of not more than \$500 per day and shall be ineligible for
15 any further relief under this subsection or subsection (a).

16 “(3)(A) The Attorney General may by regulation
17 limit eligibility for voluntary departure for any class or
18 classes of aliens.

19 “(B) No court may review any regulation issued
20 under subparagraph (A).

21 “(4) No court shall have jurisdiction over an appeal
22 from denial of a request for an order of voluntary depart-
23 ure under paragraph (1), nor shall any court order a stay
24 of an alien's removal pending consideration of any claim
25 with respect to voluntary departure.”.

1 (c) CONFORMING AMENDMENTS.—(1) Section 242(b)
 2 (8 U.S.C. 1252(b)) is amended by striking the last two
 3 sentences.

4 (2) Section 242B (8 U.S.C. 1252b) is amended—

5 (A) in subsection (e)(2), by striking “section
 6 244(e)(1)” and inserting “section 244(e)”; and

7 (B) in subsection (e)(5)—

8 (i) by striking “suspension of deportation”
 9 and inserting “cancellation of deportation”; and

10 (ii) by inserting “244,” before “245”.

11 (d) AMENDMENT TO THE TABLE OF CONTENTS.—

12 The table of contents of the Act is amended by amending
 13 the item relating to section 244 to read as follows:

“Sec. 244. Cancellation of deportation; adjustment of status; voluntary departure.”.

14 (e) EFFECTIVE DATES.—(1) The amendments made
 15 by subsection (a) shall take effect on the date of the enact-
 16 ment of this Act, and shall apply to all applications for
 17 relief under section 212(c) of the Immigration and Nation-
 18 ality Act (8 U.S.C. 1182(c)), except that, for purposes of
 19 determining the period of continuous residence, the
 20 amendments made by subsection (a) shall apply to all
 21 aliens against whom proceedings are commenced on or
 22 after the date of the enactment of this Act.

23 (2) The amendments made by subsection (b) shall
 24 take effect on the date of the enactment of this Act, and

1 shall apply to all applications for relief under section 244
2 of the Immigration and Nationality Act (8 U.S.C. 1254),
3 except that, for purposes of determining the periods of
4 continuous residence or continuous physical presence, the
5 amendments made by subsection (b) shall apply to all
6 aliens upon whom an order to show cause is served on
7 or after the date of the enactment of this Act.

8 (3) The amendments made by subsection (c) shall
9 take effect on the date of the enactment of this Act.

10 **SEC. 151. ALIEN STOWAWAYS.**

11 (a) DEFINITION.—Section 101(a) (8 U.S.C. 1101) is
12 amended by adding the following new paragraph:

13 “(47) The term ‘stowaway’ means any alien who ob-
14 tains transportation without the consent of the owner,
15 charterer, master, or person in command of any vessel or
16 aircraft through concealment aboard such vessel or air-
17 craft. A passenger who boards with a valid ticket is not
18 to be considered a stowaway.”.

19 (b) EXCLUDABILITY.—Section 237 (8 U.S.C. 1227)
20 is amended—

21 (1) in subsection (a)(1), before the period at
22 the end of the first sentence, by inserting the follow-
23 ing: “, or unless the alien is an excluded stowaway
24 who has applied for asylum or withholding of depor-
25 tation and whose application has not been adju-

1 dicated or whose application has been denied but
2 who has not exhausted every appeal right”; and

3 (2) by inserting after the first sentence in sub-
4 section (a)(1) the following new sentences: “Any
5 alien stowaway inspected upon arrival in the United
6 States is an alien who is excluded within the mean-
7 ing of this section. For purposes of this section, the
8 term ‘alien’ includes an excluded stowaway. The pro-
9 visions of this section concerning the deportation of
10 an excluded alien shall apply to the deportation of
11 a stowaway under section 273(d).”.

12 (c) CARRIER LIABILITY FOR COSTS OF DETEN-
13 TION.—Section 273(d) (8 U.S.C. 1323(d)) is amended to
14 read as follows:

15 “(d)(1) It shall be the duty of the owner, charterer,
16 agent, consignee, commanding officer, or master of any
17 vessel or aircraft arriving at the United States from any
18 place outside the United States to detain on board or at
19 such other place as may be designated by an immigration
20 officer any alien stowaway until such stowaway has been
21 inspected by an immigration officer.

22 “(2) Upon inspection of an alien stowaway by an im-
23 migration officer, the Attorney General may by regulation
24 take immediate custody of any stowaway and shall charge
25 the owner, charterer, agent, consignee, commanding offi-

1 cer, or master of the vessel or aircraft on which the stow-
2 away has arrived the costs of detaining the stowaway.

3 “(3) It shall be the duty of the owner, charterer,
4 agent, consignee, commanding officer, or master of any
5 vessel or aircraft arriving at the United States from any
6 place outside the United States to deport any alien stow-
7 away on the vessel or aircraft on which such stowaway
8 arrived or on another vessel or aircraft at the expense of
9 the vessel or aircraft on which such stowaway arrived
10 when required to do so by an immigration officer.

11 “(4) Any person who fails to comply with paragraph
12 (1) or (3), shall be subject to a fine of \$5,000 for each
13 alien for each failure to comply, payable to the Commis-
14 sioner. The Commissioner shall deposit amounts received
15 under this paragraph as offsetting collections to the appli-
16 cable appropriations account of the Service. Pending final
17 determination of liability for such fine, no such vessel or
18 aircraft shall be granted clearance, except that clearance
19 may be granted upon the deposit of a sum sufficient to
20 cover such fine, or of a bond with sufficient surety to se-
21 cure the payment thereof approved by the Commissioner.

22 “(5) An alien stowaway inspected upon arrival shall
23 be considered an excluded alien under this Act.

24 “(6) The provisions of section 235 for detention of
25 aliens for examination before a special inquiry officer and

1 the right of appeal provided for in section 236 shall not
2 apply to aliens who arrive as stowaways, and no such
3 aliens shall be permitted to land in the United States, ex-
4 cept temporarily for medical treatment, or pursuant to
5 such regulations as the Attorney General may prescribe
6 for the departure, removal, or deportation of such alien
7 from the United States.

8 “(7) A stowaway may apply for asylum under section
9 208 or withholding of deportation under section 243(h),
10 pursuant to such regulations as the Attorney General may
11 establish.”.

12 **SEC. 152. PILOT PROGRAM ON INTERIOR REPATRIATION**
13 **AND OTHER METHODS TO DETER MULTIPLE**
14 **UNLAWFUL ENTRIES.**

15 (a) ESTABLISHMENT.—Not later than 180 days after
16 the date of the enactment of this Act, the Attorney Gen-
17 eral, after consultation with the Secretary of State, shall
18 establish a pilot program for up to two years which pro-
19 vides for methods to deter multiple unlawful entries by
20 aliens into the United States. The pilot program may in-
21 clude the development and use of interior repatriation,
22 third country repatriation, and other disincentives for
23 multiple unlawful entries into the United States.

24 (b) REPORT.—Not later than 35 months after the
25 date of the enactment of this Act, the Attorney General,

1 together with the Secretary of State, shall submit a report
2 to the Committees on the Judiciary of the House of Rep-
3 resentatives and of the Senate on the operation of the pilot
4 program under this section and whether the pilot program
5 or any part thereof should be extended or made perma-
6 nent.

7 **SEC. 153. PILOT PROGRAM ON USE OF CLOSED MILITARY**
8 **BASES FOR THE DETENTION OF EXCLUDABLE**
9 **OR DEPORTABLE ALIENS.**

10 (a) ESTABLISHMENT.—The Attorney General and
11 the Secretary of Defense shall jointly establish a pilot pro-
12 gram for up to two years to determine the feasibility of
13 the use of military bases available through the defense
14 base realignment and closure process as detention centers
15 for the Immigration and Naturalization Service.

16 (b) REPORT.—Not later than 35 months after the
17 date of the enactment of this Act, the Attorney General,
18 together with the Secretary of State, shall submit a report
19 to the Committees on the Judiciary of the House of Rep-
20 resentatives and of the Senate, the Committee on National
21 Security of the House of Representatives, and the Com-
22 mittee on Armed Services of the Senate, on the feasibility
23 of using military bases closed through the defense base
24 realignment and closure process as detention centers by
25 the Immigration and Naturalization Service.

1 **SEC. 154. REQUIREMENT FOR IMMUNIZATION AGAINST**
2 **VACCINE-PREVENTABLE DISEASES FOR**
3 **ALIENS SEEKING PERMANENT RESIDENCY.**

4 (a) REQUIREMENT.—Subsection (a)(1)(A) of section
5 212 (8 U.S.C. 1182) is amended—

6 (1) by striking out “or” at the end of clause
7 (ii);

8 (2) by inserting “or” at the end of clause (iii);
9 and

10 (3) by inserting after clause (iii) the following
11 new clause:

12 “(iv) who seeks admission as a lawful
13 permanent resident, or who seeks adjust-
14 ment of status to that of an alien lawfully
15 admitted for permanent residence, and who
16 has failed to present documentation show-
17 ing that the alien has been vaccinated
18 against vaccine-preventable diseases (in-
19 cluding mumps, measles, rubella, polio, tet-
20 anus, diphtheria toxoids, pertussis,
21 haemophilus-influenza type B, hepatitis
22 type B, and any other diseases specified as
23 vaccine-preventable diseases by the Advi-
24 sory Committee on Immunization Prac-
25 tices),”.

1 (b) WAIVER.—Section 212(g) (8 U.S.C. 1182(g)) is
2 amended—

3 (1) by striking “or” at the end of paragraph
4 (1)(B);

5 (2) by inserting “or” at the end of paragraph
6 (2); and

7 (3) by inserting after paragraph (2) the follow-
8 ing new paragraph:

9 “(3) subsection (a)(1)(A)(iv) in the case of any
10 alien described in that subsection—

11 “(A) who receives vaccination against the
12 vaccine-preventable diseases described in that
13 subsection for which the alien cannot present
14 documentation showing that the alien had been
15 vaccinated previously, or

16 “(B) for whom a civil surgeon, medical of-
17 ficer, or panel physician (as such terms are de-
18 fined in section 34.2 of title 42, Code of Fed-
19 eral Regulations) certifies, in accordance with
20 such regulations as the Secretary of Health and
21 Human Services may prescribe, that vaccination
22 against such diseases would not be medically
23 appropriate.”.

24 (c) INFORMATION ON VACCINATIONS.—The Attorney
25 General shall ensure that aliens covered by section

1 212(a)(1)(A)(iv) of the Immigration and Nationality Act,
 2 as added by subsection (a), receive information on public
 3 health clinics accessible to such aliens which provide the
 4 vaccinations covered by such section.

5 (d) EFFECTIVE DATE.—The amendments made by
 6 subsections (a) and (b) shall take effect on October 1,
 7 1996, and apply to applications for admission, or adjust-
 8 ment of status, filed on or after that date.

9 **SEC. 155. CERTIFICATION REQUIREMENTS FOR FOREIGN**
 10 **HEALTH-CARE WORKERS.**

11 (a) IN GENERAL.—Section 212(a) (8 U.S.C.
 12 1182(a)) is amended—

13 (1) by redesignating paragraph (9) as para-
 14 graph (10); and

15 (2) by inserting after paragraph (8) the follow-
 16 ing new paragraph:

17 “(9) UNCERTIFIED FOREIGN HEALTH-CARE
 18 WORKERS.—(A) Any alien who seeks to enter the
 19 United States for the purpose of performing labor as
 20 a health-care worker, other than a physician, is ex-
 21 cludable unless the alien presents to the consular of-
 22 ficer, or, in the case of an adjustment of status, the
 23 Attorney General, a certificate from the Commission
 24 on Graduates of Foreign Nursing Schools, or a cer-
 25 tificate from an equivalent independent credentialing

1 organization approved by the Attorney General in
2 consultation with the Secretary of Health and
3 Human Services, verifying that—

4 “(i) the alien’s education, training, license,
5 and experience—

6 “(I) meet all applicable statutory and
7 regulatory requirements for entry into the
8 United States under the classification spec-
9 ified in the application;

10 “(II) are comparable with that re-
11 quired for an American health-care worker
12 of the same type; and

13 “(III) are authentic and, in the case
14 of a license, unencumbered;

15 “(ii) the alien has the level of competence
16 in oral and written English considered by the
17 Secretary of Health and Human Services, in
18 consultation with the Secretary of Education, to
19 be appropriate for health care work of the kind
20 in which the alien will be engaged, as shown by
21 an appropriate score on one or more nationally
22 recognized, commercially available, standardized
23 assessments of the applicant’s ability to speak
24 and write; and

12 (b) CONFORMING AMENDMENTS.—

16 (2) Section 212(c) is amended by striking
17 “(9)(C)” and inserting “(10)(C)”.

20 (a) IN GENERAL.—Section 212(a)(6) (8 U.S.C.
21 1182(a)(6)) is amended—

23 (A) by striking “one year” and inserting
24 “five years”; and

1 (B) by inserting “, or within 20 years of
2 the date of any second or subsequent deporta-
3 tion,” after “deportation”;

4 (2) in subparagraph (B)—

5 (A) by redesignating clauses (ii), (iii), and
6 (iv) as clauses (iii), (iv), and (v), respectively;

7 (B) by inserting after clause (i) the follow-
8 ing new clause;

9 “(ii) has departed the United States
10 while an order of deportation is outstand-
11 ing,”;

12 (C) by striking “or” after “removal,”; and

13 (D) by inserting “or (c) who seeks admis-
14 sion within 20 years of a second or subsequent
15 deportation or removal,” after “felony,”.

16 (b) REENTRY OF DEPORTED ALIEN.—Section
17 276(a)(1) (8 U.S.C. 1326(a)(1)) is amended to read as
18 follows:

19 “(1) has been arrested and deported, has been
20 excluded and deported, or has departed the United
21 States while an order of exclusion or deportation is
22 outstanding, and thereafter”.

1 **SEC. 157. ELIMINATION OF CONSULATE SHOPPING FOR**
2 **VISA OVERSTAYS.**

3 (a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is
4 amended by adding at the end the following new sub-
5 section:

6 “(g)(1) In the case of an alien who has entered and
7 remained in the United States beyond the authorized pe-
8 riod of stay, the alien’s nonimmigrant visa shall thereafter
9 be invalid for reentry into the United States.

10 “(2) An alien described in paragraph (1) shall be in-
11 eligible to be readmitted to the United States as a non-
12 immigrant subsequent to the expiration of the alien’s au-
13 thorized period of stay, except—

14 “(A) on the basis of a visa issued in a consular
15 office located in the country of the alien’s nationality
16 (or, if there is no office in such country, in such
17 other consular office as the Secretary of State shall
18 specify); or

19 “(B) where extraordinary circumstances are
20 found by the Secretary of State to exist.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to visas issued before, on, or after
23 the date of the enactment of this Act.

1 **SEC. 158. INCITEMENT AS A BASIS FOR EXCLUSION FROM**
2 **THE UNITED STATES.**

3 Section 212(a)(3)(B) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1182(a)(3)(B)), is amended—

5 (1) by striking “or” at the end of clause (i)(I);

6 (2) in clause (i)(II), by inserting “or” at the
7 end; and

8 (3) by inserting after clause (i)(II) the following
9 new subclause:

10 “(III) has, under circumstances
11 indicating an intention to cause death
12 or serious bodily harm, incited terror-
13 ism, engaged in targeted racial vili-
14 fication, or advocated the overthrow of
15 the United States Government or
16 death or serious bodily harm to any
17 United States citizen or United States
18 Government official.”.

19 **SEC. 159. CONFORMING AMENDMENT TO WITHHOLDING OF**
20 **DEPORTATION.**

21 Section 243(h) (8 U.S.C. 1253(h)) is amended by
22 adding at the end the following new paragraph:

23 “(3) The Attorney General may refrain from
24 deporting any alien if the Attorney General deter-
25 mines that—

“(A) such alien’s life or freedom would be threatened, in the country to which such alien would be deported or returned, on account of race, religion, nationality, membership in a particular social group, or political opinion, and

“(B) deporting such alien would violate the 1967 United Nations Protocol relating to the Status of Refugees.”.

PART 5—CRIMINAL ALIENS

SEC. 161. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) in subparagraph (D), by striking “\$100,000” and inserting “\$10,000”;

(2) in subparagraphs (F), (G), and (O), by striking “is at least 5 years” each place it appears and inserting “at least one year”;

(3) in subparagraph (J)—

(A) by striking “sentence of 5 years’ imprisonment” and inserting “sentence of one year imprisonment”; and

(B) by striking “offense described” and inserting “offense described in section 1084 of title 18 (if it is a second or subsequent offense),

1 section 1955 of such title (relating to gambling
2 offenses), or”;

3 (4) in subparagraph (K)—

4 (A) by striking “or” at the end of clause
5 (i);

6 (B) by adding “or” at the end of clause
7 (ii); and

8 (C) by adding at the end the following new
9 clause:

10 “(iii) is described in section 2421,
11 2422, or 2423 of title 18, United States
12 Code (relating to transportation for the
13 purpose of prostitution), if committed for
14 commercial advantage.”;

15 (5) in subparagraph (L)—

16 (A) by striking “or” at the end of clause
17 (i);

18 (B) by inserting “or” at the end of clause
19 (ii); and

20 (C) by adding at the end the following new
21 clause:

22 “(iii) section 601 of the National Se-
23 curity Act of 1947 (relating to protecting
24 the identity of undercover agents)”;

1 (6) in subparagraph (M), by striking
2 “\$200,000” each place it appears and inserting
3 “\$10,000”;

4 (7) in subparagraph (N)—

5 (A) by striking “of title 18, United States
6 Code”; and

7 (B) by striking “for the purpose of com-
8 mercial advantage” and inserting the following:
9 “, except, for a first offense, if the alien has af-
10 firmatively shown that the alien committed the
11 offense for the purpose of assisting, abetting, or
12 aiding only the alien’s spouse, child, or parent
13 (and no other individual) to violate a provision
14 of this Act”;

15 (8) in subparagraph (O), by striking “which
16 constitutes” and all that follows up to the semicolon
17 at the end and inserting the following: “, except, for
18 a first offense, if the alien has affirmatively shown
19 that the alien committed the offense for the purpose
20 of assisting, abetting, or aiding only the alien’s
21 spouse, child, or parent (and no other individual) to
22 violate a provision of this Act”;

23 (9) by redesignating subparagraphs (P) and
24 (Q) as subparagraphs (R) and (S), respectively;

1 (10) by inserting after subparagraph (O) the
2 following new subparagraphs:

3 “(P) any offense relating to commercial
4 bribery, counterfeiting, forgery, or trafficking in
5 vehicles whose identification numbers have been
6 altered for which the term of imprisonment im-
7 posed (regardless of any suspension of impris-
8 onment) is at least one year;

9 “(Q) any offense relating to perjury or
10 subornation of perjury for which the term of
11 imprisonment imposed (regardless of any sus-
12 pension of imprisonment) is at least one year;”
13 and

14 (11) in subparagraph (R) (as redesignated), by
15 striking “15” and inserting “5”.

16 (b) EFFECTIVE DATE OF DEFINITION.—Section
17 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by adding
18 at the end the following new sentence: “Notwithstanding
19 any other provision of law, the term applies regardless of
20 whether the conviction was entered before, on, or after the
21 date of enactment of this paragraph, except that, for pur-
22 poses of section 242(f)(2), the term has the same meaning
23 as was in effect under this paragraph on the date the of-
24 fense was committed.”.

1 (c) APPLICATION TO WITHHOLDING OF DEPORTA-
 2 TION.—Section 243(h) (8 U.S.C. 1253(h)), as amended
 3 by section 159 of this Act, is further amended in para-
 4 graph (2) by striking the last sentence and inserting the
 5 following: “For purposes of subparagraph (B), an alien
 6 shall be considered to have committed a particularly seri-
 7 ous crime if such alien has been convicted of one or more
 8 of the following:

9 “(1) An aggravated felony, or attempt or con-
 10 spiracy to commit an aggravated felony, for which
 11 the term of imprisonment imposed (regardless of any
 12 suspension of imprisonment) is at least one year.

13 “(2) An offense described in subparagraph (A),
 14 (B), (C), (E), (H), (I), (J), (L), or subparagraph
 15 (K)(ii), of section 101(a)(43), or an attempt or con-
 16 spiracy to commit an offense described in one or
 17 more of such subparagraphs.”.

18 **SEC. 162. INELIGIBILITY OF AGGRAVATED FELONS FOR AD-**
 19 **JUSTMENT OF STATUS.**

20 Section 244(c) (8 U.S.C. 1254(c)), as amended by
 21 section 150 of this Act, is further amended by adding at
 22 the end the following new sentence: “No person who has
 23 been convicted of an aggravated felony shall be eligible for
 24 relief under this subsection.”.

1 **SEC. 163. EXPEDITIOUS DEPORTATION CREATES NO EN-**
2 **FORCEABLE RIGHT FOR AGGRAVATED FEL-**
3 **ONS.**

4 Section 225 of the Immigration and Nationality
5 Technical Corrections Act of 1994 (Public Law 103–416)
6 is amended by striking “section 242(i) of the Immigration
7 and Nationality Act (8 U.S.C. 1252(i))” and inserting
8 “sections 242(i) or 242A of the Immigration and Nation-
9 ality Act (8 U.S.C. 1252(i) or 1252a)”.

10 **SEC. 164. CUSTODY OF ALIENS CONVICTED OF AGGRA-**
11 **VATED FELONIES.**

12 (a) EXCLUSION AND DEPORTATION.—Section 236 (8
13 U.S.C. 1226) is amended in subsection (e)(2) by inserting
14 after “unless” the following: “(A) the Attorney General
15 determines, pursuant to section 3521 of title 18, United
16 States Code, that release from custody is necessary to pro-
17 vide protection to a witness, a potential witness, a person
18 cooperating with an investigation into major criminal ac-
19 tivity, or an immediate family member or close associate
20 of a witness, potential witness, or person cooperating with
21 such an investigation, and that after such release the alien
22 would not be a threat to the community, or (B)”.

23 (b) CUSTODY UPON RELEASE FROM INCARCER-
24 ATION.—Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is
25 amended to read as follows:

1 “(2)(A) The Attorney General shall take into custody
 2 any specially deportable criminal alien upon release of the
 3 alien from incarceration and shall deport the alien as expe-
 4 ditiously as possible. Notwithstanding any other provision
 5 of law, the Attorney General shall not release such felon
 6 from custody.

7 “(B) The Attorney General shall have sole and
 8 unreviewable discretion to waive subparagraph (A) for
 9 aliens who are cooperating with law enforcement authori-
 10 ties or for purposes of national security.”.

11 (c) PERIOD IN WHICH TO EFFECT ALIEN’S DEPAR-
 12 TURE.—Section 242(c) is amended—

13 (1) in the first sentence—

14 (A) by striking “(c)” and inserting
 15 “(c)(1)”; and

16 (B) by inserting “(other than an alien de-
 17 scribed in paragraph (2))”; and

18 (2) by adding at the end the following new
 19 paragraphs:

20 “(2)(A) When a final order of deportation is made
 21 against any specially deportable criminal alien, the Attor-
 22 ney General shall have a period of 30 days from the later
 23 of—

24 “(i) the date of such order, or

25 “(ii) the alien’s release from incarceration,

1 within which to effect the alien’s departure from the Unit-
 2 ed States.

3 “(B) The Attorney General shall have sole and
 4 unreviewable discretion to waive subparagraph (A) for
 5 aliens who are cooperating with law enforcement authori-
 6 ties or for purposes of national security.

7 “(3) Nothing in this subsection shall be construed as
 8 providing a right enforceable by or on behalf of any alien
 9 to be released from custody or to challenge the alien’s de-
 10 portation.”.

11 (d) CRIMINAL PENALTY FOR UNLAWFUL RE-
 12 ENTRY.—Section 242(f) of the Immigration and National-
 13 ity Act (8 U.S.C. 1252(f)) is amended—

14 (1) by inserting “(1)” immediately after “(f)”;
 15 and

16 (2) by adding at the end the following new
 17 paragraph:

18 “(2) Any alien who has unlawfully reentered or is
 19 found in the United States after having previously been
 20 deported subsequent to a conviction for any criminal of-
 21 fense covered in section 241(a)(2) (A)(iii), (B), (C), or
 22 (D), or two or more offenses described in clause (ii) of
 23 section 241(a)(2)(A), at least two of which resulted in a
 24 sentence or confinement described in section
 25 241(a)(2)(A)(i)(II), shall, in addition to the punishment

1 provided for any other crime, be punished by imprison-
 2 ment of not less than 15 years.”.

3 (e) DEFINITION.—Section 242 (8 U.S.C. 1252) is
 4 amended by adding at the end the following new sub-
 5 section:

6 “(k) For purposes of this section, the term ‘specially
 7 deportable criminal alien’ means any alien convicted of an
 8 offense described in subparagraph (A)(iii), (B), (C), or
 9 (D) of section 241(a)(2), or two or more offenses de-
 10 scribed in section 241(a)(2)(A)(ii), at least two of which
 11 resulted in a sentence or confinement described in section
 12 241(a)(2)(A)(i)(II).”.

13 **SEC. 165. JUDICIAL DEPORTATION.**

14 (a) IN GENERAL.—Section 242A (8 U.S.C.
 15 1252a(d)) is amended—

16 (1) by redesignating subsection (d) as sub-
 17 section (c); and

18 (2) in subsection (c), as redesignated—

19 (A) by striking paragraph (1) and insert-
 20 ing the following:

21 “(1) AUTHORITY.—Notwithstanding any
 22 other provision of this Act, a United States dis-
 23 trict court shall have jurisdiction to enter a ju-
 24 dicial order of deportation at the time of sen-
 25 tencing against an alien—

1 “(A) whose criminal conviction causes
 2 such alien to be deportable under section
 3 241(a)(2)(A)(iii) (relating to conviction of
 4 an aggravated felony);

5 “(B) who has at any time been con-
 6 victed of a violation of section 276 (a) or
 7 (b) (relating to reentry of a deported
 8 alien);

9 “(C) who has at any time been con-
 10 victed of a violation of section 275 (relat-
 11 ing to entry of an alien at an improper
 12 time or place and to misrepresentation and
 13 concealment of facts); or

14 “(D) who is otherwise deportable pur-
 15 suant to any of the paragraphs (1)
 16 through (5) of section 241(a).

17 A United States Magistrate shall have jurisdic-
 18 tion to enter a judicial order of deportation at
 19 the time of sentencing where the alien has been
 20 convicted of a misdemeanor offense and the
 21 alien is deportable under this Act.”; and

22 (B) by adding at the end the following new
 23 paragraphs:

24 “(5) STATE COURT FINDING OF DEPORTABIL-
 25 ITY.—(A) On motion of the prosecution or on the

1 court's own motion, any State court with jurisdiction
2 to enter judgments in criminal cases is authorized to
3 make a finding that the defendant is deportable as
4 a specially deportable criminal alien (as defined in
5 section 242(k)).

6 “(B) The finding of deportability under sub-
7 paragraph (A), when incorporated in a final judg-
8 ment of conviction, shall for all purposes be conclu-
9 sive on the alien and may not be reexamined by any
10 agency or court, whether by habeas corpus or other-
11 wise. The court shall notify the Attorney General of
12 any finding of deportability.

13 “(6) STIPULATED JUDICIAL ORDER OF DEPOR-
14 TATION.—The United States Attorney, with the con-
15 currence of the Commissioner, may, pursuant to
16 Federal Rule of Criminal Procedure 11, enter into
17 a plea agreement which calls for the alien, who is de-
18 portable under this Act, to waive the right to notice
19 and a hearing under this section, and stipulate to
20 the entry of a judicial order of deportation from the
21 United States as a condition of the plea agreement
22 or as a condition of probation or supervised release,
23 or both. The United States District Court, in both
24 felony and misdemeanor cases, and the United
25 States Magistrate Court in misdemeanors cases, may

1 accept such a stipulation and shall have jurisdiction
 2 to enter a judicial order of deportation pursuant to
 3 the terms of such stipulation.”.

4 (b) CONFORMING AMENDMENTS.—(1) Section 512 of
 5 the Immigration Act of 1990 is amended by striking
 6 “242A(d)” and inserting “242A(c)”.

7 (2) Section 130007(a) of the Violent Crime Control
 8 and Law Enforcement Act of 1994 (Public Law 103-322)
 9 is amended by striking “242A(d)” and inserting
 10 “242A(c)”.

11 **SEC. 166. STIPULATED EXCLUSION OR DEPORTATION.**

12 (a) EXCLUSION AND DEPORTATION.—Section 236 (8
 13 U.S.C. 1226) is amended by adding at the end the follow-
 14 ing new subsection:

15 “(f) The Attorney General shall provide by regulation
 16 for the entry by a special inquiry officer of an order of
 17 exclusion and deportation stipulated to by the alien and
 18 the Service. Such an order may be entered without a per-
 19 sonal appearance by the alien before the special inquiry
 20 officer. A stipulated order shall constitute a conclusive de-
 21 termination of the alien’s excludability and deportability
 22 from the United States.”.

23 (b) APPREHENSION AND DEPORTATION.—Section
 24 242 (8 U.S.C. 1252) is amended in subsection (b)—

1 (1) by redesignating paragraphs (1), (2), (3),
 2 and (4) as subparagraphs (A), (B), (C), and (D), re-
 3 spectively;

4 (2) by inserting “(1)” immediately after “(b)”;

5 (3) by striking the sentence beginning with
 6 “Except as provided in section 242A(d)” and insert-
 7 ing the following:

8 “(2) The Attorney General shall further provide by
 9 regulation for the entry by a special inquiry officer of an
 10 order of deportation stipulated to by the alien and the
 11 Service. Such an order may be entered without a personal
 12 appearance by the alien before the special inquiry officer.
 13 A stipulated order shall constitute a conclusive determina-
 14 tion of the alien’s deportability from the United States.

15 “(3) The procedures prescribed in this subsection and
 16 in section 242A(c) shall be the sole and exclusive proce-
 17 dures for determining the deportability of an alien.”; and

18 (4) by redesignating the tenth sentence as para-
 19 graph (4); and

20 (5) by redesignating the eleventh and twelfth
 21 sentences as paragraph (5).

22 (c) CONFORMING AMENDMENTS.—(1) Section 106(a)
 23 is amended by striking “section 242(b)” and inserting
 24 “section 242(b)(1)”.

1 (2) Section 212(a)(6)(B)(iv) is amended by striking
2 “section 242(b)” and inserting “section 242(b)(1)”.

3 (3) Section 242(a)(1) is amended by striking “sub-
4 section (b)” and inserting “subsection (b)(1)”.

5 (4) Section 242A(b)(1) is amended by striking “sec-
6 tion 242(b)” and inserting “section 242(b)(1)”.

7 (5) Section 242A(c)(2)(D)(ii), as redesignated by sec-
8 tion 165 of this Act, is amended by striking “section
9 242(b)” and inserting “section 242(b)(1)”.

10 (6) Section 4113(a) of title 18, United States Code,
11 is amended by striking “section 1252(b)” and inserting
12 “section 1252(b)(1)”.

13 (7) Section 1821(e) of title 28, United States Code,
14 is amended by striking “section 242(b) of such Act (8
15 U.S.C. 1252(b))” and inserting “section 242(b)(1) of such
16 Act (8 U.S.C. 1252(b)(1))”.

17 (8) Section 242B(c)(1) is amended by striking “sec-
18 tion 242(b)(1)” and inserting “section 242(b)(4)”.

19 (9) Section 242B(e)(2)(A) is amended by striking
20 “section 242(b)(1)” and inserting “section 242(b)(4)”.

21 (10) Section 242B(e)(5)(A) is amended by striking
22 “section 242(b)(1)” and inserting “section 242(b)(4)”.

23 **SEC. 167. DEPORTATION AS A CONDITION OF PROBATION.**

24 Section 3563(b) of title 18, United States Code, is
25 amended—

1 (1) by striking “or” at the end of paragraph
2 (21);

3 (2) by striking the period at the end of para-
4 graph (22) and inserting “; or”; and

5 (3) by adding at the end the following new
6 paragraph:

7 “(23) be ordered deported by a United States
8 District Court, or United States Magistrate Court,
9 pursuant to a stipulation entered into by the defend-
10 ant and the United States under section 242A(c) of
11 the Immigration and Nationality Act (8 U.S.C.
12 1252a(c)), except that, in the absence of a stipula-
13 tion, the United States District Court or the United
14 States Magistrate Court, may order deportation as
15 a condition of probation, if, after notice and hearing
16 pursuant to section 242A(c) of the Immigration and
17 Nationality Act, the Attorney General demonstrates
18 by clear and convincing evidence that the alien is de-
19 portable.”.

20 **SEC. 168. ANNUAL REPORT ON CRIMINAL ALIENS.**

21 Not later than 12 months after the date of the enact-
22 ment of this Act, and annually thereafter, the Attorney
23 General shall submit to the Committees on the Judiciary
24 of the House of Representatives and of the Senate a report
25 detailing—

1 (1) the number of illegal aliens incarcerated in
2 Federal and State prisons for having committed felo-
3 nies, stating the number incarcerated for each type
4 of offense;

5 (2) the number of illegal aliens convicted for
6 felonies in any Federal or State court, but not sen-
7 tenced to incarceration, in the year before the report
8 was submitted, stating the number convicted for
9 each type of offense;

10 (3) programs and plans underway in the De-
11 partment of Justice to ensure the prompt removal
12 from the United States of criminal aliens subject to
13 exclusion or deportation; and

14 (4) methods for identifying and preventing the
15 unlawful reentry of aliens who have been convicted
16 of criminal offenses in the United States and re-
17 moved from the United States.

18 **SEC. 169. UNDERCOVER INVESTIGATION AUTHORITY.**

19 (a) **AUTHORITIES.**—(1) In order to conduct any un-
20 dercover investigative operation of the Immigration and
21 Naturalization Service which is necessary for the detection
22 and prosecution of crimes against the United States, the
23 Service is authorized—

24 (A) to lease space within the United States, the
25 District of Columbia, and the territories and posses-

1 sions of the United States without regard to section
2 3679(a) of the Revised Statutes (31 U.S.C. 1341),
3 section 3732(a) of the Revised Statutes (41 U.S.C.
4 11(a)), section 305 of the Act of June 30, 1949 (63
5 Stat. 396; 41 U.S.C. 255), the third undesignated
6 paragraph under the heading “Miscellaneous” of the
7 Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34),
8 section 3648 of the Revised Statutes (31 U.S.C.
9 3324), section 3741 of the Revised Statutes (41
10 U.S.C. 22), and subsections (a) and (c) of section
11 304 of the Federal Property and Administrative
12 Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254
13 (a) and (c));

14 (B) to establish or to acquire proprietary cor-
15 porations or business entities as part of an under-
16 cover operation, and to operate such corporations or
17 business entities on a commercial basis, without re-
18 gard to the provisions of section 304 of the Govern-
19 ment Corporation Control Act (31 U.S.C. 9102);

20 (C) to deposit funds, including the proceeds
21 from such undercover operation, in banks or other
22 financial institutions without regard to the provi-
23 sions of section 648 of title 18 of the United States
24 Code, and section 3639 of the Revised Statutes (31
25 U.S.C. 3302); and

1 (D) to use the proceeds from such undercover
2 operations to offset necessary and reasonable ex-
3 penses incurred in such operations without regard to
4 the provisions of section 3617 of the Revised Stat-
5 utes (31 U.S.C. 3302).

6 (2) The authorization set forth in paragraph (1) may
7 be exercised only upon written certification of the Commis-
8 sioner of the Immigration and Naturalization Service, in
9 consultation with the Deputy Attorney General, that any
10 action authorized by paragraph (1) (A), (B), (C), or (D)
11 is necessary for the conduct of such undercover operation.

12 (b) UNUSED FUNDS.—As soon as practicable after
13 the proceeds from an undercover investigative operation,
14 carried out under paragraph (1) (C) or (D) of subsection
15 (a), are no longer necessary for the conduct of such oper-
16 ation, such proceeds or the balance of such proceeds re-
17 maining at the time shall be deposited into the Treasury
18 of the United States as miscellaneous receipts.

19 (c) REPORT.—If a corporation or business entity es-
20 tablished or acquired as part of an undercover operation
21 under subsection (a)(1)(B) with a net value of over
22 \$50,000 is to be liquidated, sold, or otherwise disposed
23 of, the Immigration and Naturalization Service, as much
24 in advance as the Commissioner or his or her designee
25 determine practicable, shall report the circumstances to

1 the Attorney General, the Director of the Office of Man-
2 agement and Budget, and the Comptroller General of the
3 United States. The proceeds of the liquidation, sale, or
4 other disposition, after obligations are met, shall be depos-
5 ited in the Treasury of the United States as miscellaneous
6 receipts.

7 (d) AUDITS.—The Immigration and Naturalization
8 Service shall conduct detailed financial audits of closed un-
9 dercover operations on a quarterly basis and shall report
10 the results of the audits in writing to the Deputy Attorney
11 General.

12 **SEC. 170. PRISONER TRANSFER TREATIES.**

13 (a) NEGOTIATIONS WITH OTHER COUNTRIES.—(1)
14 Congress advises the President to begin to negotiate and
15 renegotiate, not later than 90 days after the date of enact-
16 ment of this Act, bilateral prisoner transfer treaties, pro-
17 viding for the incarceration, in the country of the alien's
18 nationality, of any alien who—

19 (A) is a national of a country that is party to
20 such a treaty; and

21 (B) has been convicted of a criminal offense
22 under Federal or State law and who—

23 (i) is not in lawful immigration status in
24 the United States, or

1 (ii) on the basis of conviction for a crimi-
2 nal offense under Federal or State law, or on
3 any other basis, is subject to deportation under
4 the Immigration and Nationality Act,
5 for the duration of the prison term to which the alien was
6 sentenced for the offense referred to in subparagraph (B).
7 Any such agreement may provide for the release of such
8 alien pursuant to parole procedures of that country.

9 (2) In entering into negotiations under paragraph
10 (1), the President may consider providing for appropriate
11 compensation, subject to the availability of appropriations,
12 in cases where the United States is able to independently
13 verify the adequacy of the sites where aliens will be impris-
14 oned and the length of time the alien is actually incarcer-
15 ated in the foreign country under such a treaty.

16 (b) SENSE OF CONGRESS.—It is the sense of the
17 Congress that—

18 (1) the focus of negotiations for such agree-
19 ments should be—

20 (A) to expedite the transfer of aliens un-
21 lawfully in the United States who are (or are
22 about to be) incarcerated in United States pris-
23 ons,

1 (B) to ensure that a transferred prisoner
2 serves the balance of the sentence imposed by
3 the United States courts,

4 (C) to eliminate any requirement of pris-
5 oner consent to such a transfer, and

6 (D) to allow the Federal Government or
7 the States to keep their original prison sen-
8 tences in force so that transferred prisoners
9 who return to the United States prior to the
10 completion of their original United States sen-
11 tences can be returned to custody for the bal-
12 ance of their prisons sentences;

13 (2) the Secretary of State should give priority
14 to concluding an agreement with any country for
15 which the President determines that the number of
16 aliens described in subsection (a) who are nationals
17 of that country in the United States represents a
18 significant percentage of all such aliens in the Unit-
19 ed States; and

20 (3) no new treaty providing for the transfer of
21 aliens from Federal, State, or local incarceration fa-
22 cilities to a foreign incarceration facility should per-
23 mit the alien to refuse the transfer.

24 (c) PRISONER CONSENT.—Notwithstanding any
25 other provision of law, except as required by treaty, the

1 transfer of an alien from a Federal, State, or local incar-
2 ceration facility under an agreement of the type referred
3 to in subsection (a) shall not require consent of the alien.

4 (d) ANNUAL REPORT.—Not later than 90 days after
5 the date of the enactment of this Act, and annually there-
6 after, the Attorney General shall submit a report to the
7 Committees on the Judiciary of the House of Representa-
8 tives and of the Senate stating whether each prisoner
9 transfer treaty to which the United States is a party has
10 been effective in the preceding 12 months in bringing
11 about the return of deportable incarcerated aliens to the
12 country of which they are nationals and in ensuring that
13 they serve the balance of their sentences.

14 (e) TRAINING FOREIGN LAW ENFORCEMENT PER-
15 SONNEL.—(1) Subject to paragraph (2), the President
16 shall direct the Border Patrol Academy and the Customs
17 Service Academy to enroll for training an appropriate
18 number of foreign law enforcement personnel, and shall
19 make appointments of foreign law enforcement personnel
20 to such academies, as necessary to further the following
21 United States law enforcement goals:

22 (A) prevention of drug smuggling and other
23 cross-border criminal activity;

24 (B) preventing illegal immigration; and

1 (C) preventing the illegal entry of goods into
2 the United States (including goods the sale of which
3 is illegal in the United States, the entry of which
4 would cause a quota to be exceeded, or which have
5 not paid the appropriate duty or tariff).

6 (2) The appointments described in paragraph (1)
7 shall be made only to the extent there is capacity in such
8 academies beyond what is required to train United States
9 citizens needed in the Border Patrol and Customs Service,
10 and only of personnel from a country with which the pris-
11 oner transfer treaty has been stated to be effective in the
12 most recent report referred to in subsection (d).

13 (f) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated such sums as may be
15 necessary to carry out this section.

16 **SEC. 170A. PRISONER TRANSFER TREATIES STUDY.**

17 (a) REPORT TO CONGRESS.—Not later than 180 days
18 after the date of the enactment of this Act, the Secretary
19 of State and the Attorney General shall submit to the Con-
20 gress a report that describes the use and effectiveness of
21 the prisoner transfer treaties with the three countries with
22 the greatest number of their nationals incarcerated in the
23 United States in removing from the United States such
24 incarcerated nationals.

1 (b) USE OF TREATY.—The report under subsection

2 (a) shall include—

3 (1) the number of aliens convicted of a criminal
4 offense in the United States since November 30,
5 1977, who would have been or are eligible for trans-
6 fer pursuant to the treaties;

7 (2) the number of aliens described in paragraph
8 (1) who have been transferred pursuant to the trea-
9 ties;

10 (3) the number of aliens described in paragraph
11 (2) who have been incarcerated in full compliance
12 with the treaties;

13 (4) the number of aliens who are incarcerated
14 in a penal institution in the United States who are
15 eligible for transfer pursuant to the treaties; and

16 (5) the number of aliens described in paragraph
17 (4) who are incarcerated in Federal, State, and local
18 penal institutions in the United States.

19 (c) RECOMMENDATIONS.—The report under sub-
20 section (a) shall include the recommendations of the Sec-
21 retary of State and the Attorney General to increase the
22 effectiveness and use of, and full compliance with, the
23 treaties. In considering the recommendations under this
24 subsection, the Secretary and the Attorney General shall
25 consult with such State and local officials in areas dis-

1 proportionately impacted by aliens convicted of criminal
2 offenses as the Secretary and the Attorney General con-
3 sider appropriate. Such recommendations shall address—

4 (1) changes in Federal laws, regulations, and
5 policies affecting the identification, prosecution, and
6 deportation of aliens who have committed criminal
7 offenses in the United States;

8 (2) changes in State and local laws, regulations,
9 and policies affecting the identification, prosecution,
10 and deportation of aliens who have committed a
11 criminal offense in the United States;

12 (3) changes in the treaties that may be nec-
13 essary to increase the number of aliens convicted of
14 criminal offenses who may be transferred pursuant
15 to the treaties;

16 (4) methods for preventing the unlawful reentry
17 into the United States of aliens who have been con-
18 victed of criminal offenses in the United States and
19 transferred pursuant to the treaties;

20 (5) any recommendations by appropriate offi-
21 cials of the appropriate government agencies of such
22 countries regarding programs to achieve the goals
23 of, and ensure full compliance with, the treaties;

1 (6) whether the recommendations under this
2 subsection require the renegotiation of the treaties;
3 and

4 (7) the additional funds required to implement
5 each recommendation under this subsection.

6 **SEC. 170B. USING ALIEN FOR IMMORAL PURPOSES, FILING**
7 **REQUIREMENT.**

8 Section 2424 of title 18, United States Code, is
9 amended—

10 (1) in the first undesignated paragraph of sub-
11 section (a)—

12 (A) by striking “alien” each place it ap-
13 pears;

14 (B) by inserting after “individual” the first
15 place it appears the following: “, knowing or in
16 reckless disregard of the fact that the individual
17 is an alien”; and

18 (C) by striking “within three years after
19 that individual has entered the United States
20 from any country, party to the arrangement
21 adopted July 25, 1902, for the suppression of
22 the white-slave traffic”;

23 (2) in the second undesignated paragraph of
24 subsection (a)—

1 (A) by striking “thirty” and inserting “five
2 business”; and

3 (B) by striking “within three years after
4 that individual has entered the United States
5 from any country, party to the said arrange-
6 ment for the suppression of the white-slave
7 traffic,”;

8 (3) in the text following the third undesignated
9 paragraph of subsection (a), by striking “two” and
10 inserting “10”; and

11 (4) in subsection (b), before the period at the
12 end of the second sentence, by inserting “, or for en-
13 forcement of the provisions of section 274A of the
14 Immigration and Nationality Act”.

15 **SEC. 170C. TECHNICAL CORRECTIONS TO VIOLENT CRIME**
16 **CONTROL ACT AND TECHNICAL CORREC-**
17 **TIONS ACT.**

18 (a) IN GENERAL.—The second subsection (i) of sec-
19 tion 245 (as added by section 130003(c)(1) of the Violent
20 Crime Control and Law Enforcement Act of 1994; Public
21 Law 103–322) is redesignated as subsection (j) of such
22 section.

23 (b) CONFORMING AMENDMENT.—Section
24 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)) is

1 amended by striking “section 245(i)” and inserting “sec-
 2 tion 245(j)”.

3 (c) DENIAL OF JUDICIAL ORDER.—(1) Section
 4 242A(c)(4), as redesignated by section 165 of this Act,
 5 is amended by striking “without a decision on the merits”.

6 (2) The amendment made by this subsection shall be
 7 effective as if originally included in section 223 of the Im-
 8 migration and Nationality Technical Corrections Act of
 9 1994 (Public Law 103–416).

10 **SEC. 170D. DEMONSTRATION PROJECT FOR IDENTIFICA-**
 11 **TION OF ILLEGAL ALIENS IN INCARCER-**
 12 **ATION FACILITY OF ANAHEIM, CALIFORNIA.**

13 (a) AUTHORITY.—The Attorney General is author-
 14 ized to conduct a project demonstrating the feasibility of
 15 identifying illegal aliens among those individuals who are
 16 incarcerated in local governmental prison facilities prior
 17 to arraignment on criminal charges.

18 (b) DESCRIPTION OF PROJECT.—The project author-
 19 ized by subsection (a) shall include the detail to the city
 20 of Anaheim, California, of an employee of the Immigration
 21 and Naturalization Service having expertise in the identi-
 22 fication of illegal aliens for the purpose of training local
 23 officials in the identification of such aliens.

1 (c) TERMINATION.—The authority of this section
 2 shall cease to be effective 6 months after the date of the
 3 enactment of this Act.

4 (d) DEFINITION.—As used in this section, the term
 5 “illegal alien” means an alien in the United States who
 6 is not within any of the following classes of aliens:

7 (1) Aliens lawfully admitted for permanent resi-
 8 dence.

9 (2) Nonimmigrant aliens described in section
 10 101(a)(15) of the Immigration and Nationality Act.

11 (3) Refugees.

12 (4) Asylees.

13 (5) Parolees.

14 (6) Aliens having deportation withheld under
 15 section 243(h) of the Immigration and Nationality
 16 Act.

17 (7) Aliens having temporary residence status.

18 **PART 6—MISCELLANEOUS**

19 **SEC. 171. IMMIGRATION EMERGENCY PROVISIONS.**

20 (a) REIMBURSEMENT OF FEDERAL AGENCIES FROM
 21 IMMIGRATION EMERGENCY FUND.—Section 404(b) (8
 22 U.S.C. 1101 note) is amended—

23 (1) in paragraph (1)—

24 (A) after “paragraph (2)” by striking

25 “and” and inserting a comma,

1 (B) by striking “State” and inserting
2 “other Federal agencies and States”,

3 (C) by inserting “, and for the costs asso-
4 ciated with repatriation of aliens attempting to
5 enter the United States illegally, whether appre-
6 hended within or outside the territorial sea of
7 the United States” before “except”, and

8 (D) by adding at the end the following new
9 sentence: “The fund may be used for the costs
10 of such repatriations without the requirement
11 for a determination by the President that an
12 immigration emergency exists.”; and

13 (2) in paragraph (2)(A)—

14 (A) by inserting “to Federal agencies pro-
15 viding support to the Department of Justice
16 or” after “available”; and

17 (B) by inserting a comma before “when-
18 ever”.

19 (b) VESSEL MOVEMENT CONTROLS.—Section 1 of
20 the Act of June 15, 1917 (50 U.S.C. 191) is amended
21 in the first sentence by inserting “or whenever the Attor-
22 ney General determines that an actual or anticipated mass
23 migration of aliens en route to or arriving off the coast
24 of the United States presents urgent circumstances requir-

1 ing an immediate Federal response,” after “United
2 States,” the first place it appears.

3 (c) DELEGATION OF IMMIGRATION ENFORCEMENT
4 AUTHORITY.—Section 103 (8 U.S.C. 1103) is amended by
5 adding at the end of subsection (a) the following new sen-
6 tence: “In the event the Attorney General determines that
7 an actual or imminent mass influx of aliens arriving off
8 the coast of the United States, or near a land border, pre-
9 sents urgent circumstances requiring an immediate Fed-
10 eral response, the Attorney General may authorize any
11 specially designated State or local law enforcement officer,
12 with the consent of the head of the department, agency,
13 or establishment under whose jurisdiction the individual
14 is serving, to perform or exercise any of the powers, privi-
15 leges, or duties conferred or imposed by this Act or regula-
16 tions issued thereunder upon officers or employees of the
17 Service.”.

18 **SEC. 172. AUTHORITY TO DETERMINE VISA PROCESSING**
19 **PROCEDURES.**

20 Section 202(a)(1) (8 U.S.C. 1152(a)(1)) is amend-
21 ed—

22 (1) by inserting “(A)” after “NONDISCRIMINA-
23 TION.—”; and

24 (2) by adding at the end the following:

1 “(B) Nothing in this paragraph shall be con-
2 strued to limit the authority of the Secretary of
3 State to determine the procedures for the processing
4 of immigrant visa applications or the locations where
5 such applications will be processed.”.

6 **SEC. 173. JOINT STUDY OF AUTOMATED DATA COLLECTION.**

7 (a) STUDY.—The Attorney General, together with the
8 Secretary of State, the Secretary of Agriculture, the Sec-
9 retary of the Treasury, and appropriate representatives of
10 the air transport industry, shall jointly undertake a study
11 to develop a plan for making the transition to automated
12 data collection at ports of entry.

13 (b) REPORT.—Nine months after the date of enact-
14 ment of this Act, the Attorney General shall submit a re-
15 port to the Committees on the Judiciary of the Senate
16 and the House of Representatives on the outcome of this
17 joint initiative, noting specific areas of agreement and dis-
18 agreement, and recommending further steps to be taken,
19 including any suggestions for legislation.

20 **SEC. 174. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.**

21 Not later than 2 years after the date of the enact-
22 ment of this Act, the Attorney General shall develop an
23 automated entry and exit control system that will enable
24 the Attorney General to identify, through on-line search-
25 ing procedures, lawfully admitted nonimmigrants who re-

1 main in the United States beyond the period authorized
2 by the Attorney General.

3 **SEC. 175. USE OF LEGALIZATION AND SPECIAL AGRICUL-**
4 **TURAL WORKER INFORMATION.**

5 (a) CONFIDENTIALITY OF INFORMATION.—Section
6 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended by striking
7 “except that the Attorney General” and inserting the fol-
8 lowing: “except that the Attorney General shall provide
9 information furnished under this section to a duly recog-
10 nized law enforcement entity in connection with a criminal
11 investigation or prosecution, when such information is re-
12 quested in writing by such entity, or to an official coroner
13 for purposes of affirmatively identifying a deceased indi-
14 vidual (whether or not such individual is deceased as a
15 result of a crime) and”.

16 (b) SPECIAL AGRICULTURAL WORKERS.—Section
17 210(b)(6)(C) (8 U.S.C. 1160(b)(6)(C)) is amended—

18 (1) by striking the period at the end of sub-
19 paragraph (C) and inserting a comma; and

20 (2) by adding in full measure margin after sub-
21 paragraph (C) the following:

22 “except that the Attorney General shall provide in-
23 formation furnished under this section to a duly rec-
24 ognized law enforcement entity in connection with a
25 criminal investigation or prosecution, when such in-

1 formation is requested in writing by such entity, or
2 to an official coroner for purposes of affirmatively
3 identifying a deceased individual (whether or not
4 such individual is deceased as a result of a crime).”.

5 **SEC. 176. RESCISSION OF LAWFUL PERMANENT RESIDENT**
6 **STATUS.**

7 Section 246(a) (8 U.S.C. 1256(a)) is amended—

8 (1) by inserting “(1)” immediately after “(a)”;
9 and

10 (2) by adding at the end the following new sen-
11 tence: “Nothing in this subsection requires the At-
12 torney General to rescind the alien’s status prior to
13 commencement of procedures to deport the alien
14 under section 242 or 242A, and an order of deporta-
15 tion issued by a special inquiry officer shall be suffi-
16 cient to rescind the alien’s status.”.

17 **SEC. 177. COMMUNICATION BETWEEN FEDERAL, STATE,**
18 **AND LOCAL GOVERNMENT AGENCIES, AND**
19 **THE IMMIGRATION AND NATURALIZATION**
20 **SERVICE.**

21 Notwithstanding any other provision of Federal,
22 State, or local law, no Federal, State, or local government
23 entity shall prohibit, or in any way restrict, any govern-
24 ment entity or any official within its jurisdiction from
25 sending to, or receiving from, the Immigration and Natu-

1 ralization Service information regarding the immigration
2 status, lawful or unlawful, of any person.

3 **SEC. 178. AUTHORITY TO USE VOLUNTEERS.**

4 (a) ACCEPTANCE OF DONATED SERVICES.—Notwith-
5 standing any other provision of law, but subject to sub-
6 section (b), the Attorney General may accept, administer,
7 and utilize gifts of services from any person for the pur-
8 pose of providing administrative assistance to the Immi-
9 gration and Naturalization Service in administering pro-
10 grams relating to naturalization, adjudications at ports of
11 entry, and removal of criminal aliens. Nothing in this sec-
12 tion requires the Attorney General to accept the services
13 of any person.

14 (b) LIMITATION.—Such person may not administer
15 or score tests and may not adjudicate.

16 **SEC. 179. AUTHORITY TO ACQUIRE FEDERAL EQUIPMENT**
17 **FOR BORDER.**

18 In order to facilitate or improve the detection, inter-
19 diction, and reduction by the Immigration and Naturaliza-
20 tion Service of illegal immigration into the United States,
21 the Attorney General is authorized to acquire and utilize
22 any Federal equipment (including, but not limited to,
23 fixed-wing aircraft, helicopters, four-wheel drive vehicles,
24 sedans, night vision goggles, night vision scopes, and sen-
25 sor units) determined available for transfer to the Depart-

1 ment of Justice by any other agency of the Federal Gov-
2 ernment upon request of the Attorney General.

3 **SEC. 180. LIMITATION ON LEGALIZATION LITIGATION.**

4 (a) LIMITATION ON COURT JURISDICTION.—Section
5 245A(f)(4) is amended by adding at the end the following
6 new subparagraph:

7 “(C) JURISDICTION OF COURTS.—Notwithstanding
8 any other provision of law, no court shall have jurisdiction
9 of any cause of action or claim by or on behalf of any
10 person asserting an interest under this section unless such
11 person in fact filed an application under this section with-
12 in the period specified by subsection (a)(1), or attempted
13 to file a complete application and application fee with an
14 authorized legalization officer of the Immigration and
15 Naturalization Service but had the application and fee re-
16 fused by that officer.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall be effective as if originally included in
19 section 201 of the Immigration Control and Financial Re-
20 sponsibility Act of 1986.

21 **SEC. 181. LIMITATION ON ADJUSTMENT OF STATUS.**

22 Section 245(c) (8 U.S.C. 1255(c)) is amended—

23 (1) by striking “or (5)” and inserting “(5)”;
24 and

1 (2) by inserting before the period at the end the
2 following: “; (6) any alien who seeks adjustment of
3 status as an employment-based immigrant and is not
4 in a lawful nonimmigrant status; or (7) any alien
5 who was employed while the alien was an unauthor-
6 ized alien, as defined in section 274A(h)(3), or who
7 has otherwise violated the terms of a nonimmigrant
8 visa”.

9 **SEC. 182. REPORT ON DETENTION SPACE.**

10 (a) IN GENERAL.—Not later than one year after the
11 date of the enactment of this Act, the Attorney General
12 shall submit a report to the Congress estimating the
13 amount of detention space that would be required on the
14 date of enactment of this Act, in 5 years, and in 10 years,
15 under various policies on the detention of aliens, including
16 but not limited to—

17 (1) detaining all excludable or deportable aliens
18 who may lawfully be detained;

19 (2) detaining all excludable or deportable aliens
20 who previously have been excluded, been deported,
21 departed while an order of exclusion or deportation
22 was outstanding, voluntarily departed under section
23 244, or voluntarily returned after being apprehended
24 while violating an immigration law of the United
25 States; and

1 (3) the current policy.

2 (b) ESTIMATE OF NUMBER OF ALIENS RELEASED
 3 INTO THE COMMUNITY.—Such report shall also estimate
 4 the number of excludable or deportable aliens who have
 5 been released into the community in each of the 3 years
 6 prior to the date of enactment of this Act under cir-
 7 cumstances that the Attorney General believes justified
 8 detention (for example, a significant probability that the
 9 released alien would not appear, as agreed, at subsequent
 10 exclusion or deportation proceedings), but a lack of deten-
 11 tion facilities required release.

12 **SEC. 183. COMPENSATION OF IMMIGRATION JUDGES.**

13 (a) COMPENSATION.—

14 (1) IN GENERAL.—There shall be four levels of
 15 pay for special inquiry officers of the Department of
 16 Justice (in this section referred to as “immigration
 17 judges”) under the Immigration Judge Schedule
 18 (designated as IJ-1, IJ-2, IJ-3, and IJ-4, respec-
 19 tively), and each such judge shall be paid at one of
 20 those levels, in accordance with the provisions of this
 21 subsection.

22 (2) RATES OF PAY.—(A) The rates of basic pay
 23 for the levels established under paragraph (1) shall
 24 be as follows:

IJ-1	70 percent of the next to highest rate of basic pay for the Senior Execu- tive Service.
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IJ-2	80 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ-3	90 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ-4	92 percent of the next to highest rate of basic pay for the Senior Executive Service.

1 (B) Locality pay, where applicable, shall be calculated into the basic pay for immigration judges.

3 (3) APPOINTMENT.—(A) Upon appointment, an immigration judge shall be paid at IJ-1, and shall be advanced to IJ-2 upon completion of 104 weeks of service, to IJ-3 upon completion of 104 weeks of service in the next lower rate, and to IJ-4 upon completion of 52 weeks of service in the next lower rate.

10 (B) The Attorney General may provide for appointment of an immigration judge at an advanced rate under such circumstances as the Attorney General may determine appropriate.

14 (4) TRANSITION.—Judges serving on the Immigration Court as of the effective date of this subsection shall be paid at the rate that corresponds to the amount of time, as provided under paragraph (3)(A), that they have served as an immigration judge.

20 (b) EFFECTIVE DATE.—Subsection (a) shall take effect 90 days after the date of the enactment of this Act.

1 **SEC. 184. ACCEPTANCE OF STATE SERVICES TO CARRY OUT**
2 **IMMIGRATION ENFORCEMENT.**

3 Section 287 (8 U.S.C. 1357) is amended by adding
4 at the end the following:

5 “(g)(1) Notwithstanding section 1342 of title 31,
6 United States Code, the Attorney General may enter into
7 a written agreement with a State, or any political subdivi-
8 sion of a State, pursuant to which an officer or employee
9 of the State or subdivision, who is determined by the At-
10 torney General to be qualified to perform a function of
11 an immigration officer in relation to the arrest or deten-
12 tion of aliens in the United States, may carry out such
13 function at the expense of the State or political subdivision
14 and to the extent consistent with State and local law.

15 “(2) An agreement under this subsection shall re-
16 quire that an officer or employee of a State or political
17 subdivision of a State performing a function under the
18 agreement shall have knowledge of, and adhere to, Federal
19 law relating to the function, and shall contain a written
20 certification that the officers or employees performing the
21 function under the agreement have received adequate
22 training regarding the enforcement of relevant Federal im-
23 migration laws.

24 “(3) In performing a function under this subsection,
25 an officer or employee of a State or political subdivision

1 of a State shall be subject to the direction and supervision
2 of the Attorney General.

3 “(4) In performing a function under this subsection,
4 an officer or employee of a State or political subdivision
5 of a State may use Federal property or facilities, as pro-
6 vided in a written agreement between the Attorney Gen-
7 eral and the State or subdivision.

8 “(5) With respect to each officer or employee of a
9 State or political subdivision who is authorized to perform
10 a function under this subsection, the specific powers and
11 duties that may be, or are required to be, exercised or
12 performed by the individual, the duration of the authority
13 of the individual, and the position of the agency of the
14 Attorney General who is required to supervise and direct
15 the individual, shall be set forth in a written agreement
16 between the Attorney General and the State or political
17 subdivision.

18 “(6) The Attorney General may not accept a service
19 under this subsection if the service will be used to displace
20 any Federal employee.

21 “(7) Except as provided in paragraph (8), an officer
22 or employee of a State or political subdivision of a State
23 performing functions under this subsection shall not be
24 treated as a Federal employee for any purpose other than
25 for purposes of chapter 81 of title 5, United States Code,

1 (relating to compensation for injury) and sections 2671
2 through 2680 of title 28, United States Code (relating to
3 tort claims).

4 “(8) An officer or employee of a State or political
5 subdivision of a State acting under color of authority
6 under this subsection, or any agreement entered into
7 under this subsection, shall be considered to be acting
8 under color of Federal authority for purposes of determin-
9 ing the liability, and immunity from suit, of the officer
10 or employee in a civil action brought under Federal or
11 State law.

12 “(9) Nothing in this subsection shall be construed to
13 require any State or political subdivision of a State to
14 enter into an agreement with the Attorney General under
15 this subsection.

16 “(10) Nothing in this subsection shall be construed
17 to require an agreement under this subsection in order for
18 any officer or employee of a State or political subdivision
19 of a State—

20 “(A) to communicate with the Attorney General
21 regarding the immigration status of any individual,
22 including reporting knowledge that a particular alien
23 is not lawfully present in the United States; or

24 “(B) otherwise to cooperate with the Attorney
25 General in the identification, apprehension, deten-

1 tion, or removal of aliens not lawfully present in the
2 United States.”.

3 **SEC. 185. ALIEN WITNESS COOPERATION.**

4 Section 214(j)(1) of the Immigration and Nationality
5 Act (8 U.S.C. 1184(j)(1)) (relating to numerical limita-
6 tions on the number of aliens that may be provided visas
7 as nonimmigrants under section 101(a)(15)(5)(ii) of such
8 Act) is amended—

9 (1) by striking “100” and inserting “200”; and

10 (2) by striking “25” and inserting “50”.

11 **Subtitle B—Other Control**
12 **Measures**

13 **PART 1—PAROLE AUTHORITY**

14 **SEC. 191. USABLE ONLY ON A CASE-BY-CASE BASIS FOR HU-**
15 **MANITARIAN REASONS OR SIGNIFICANT PUB-**
16 **LIC BENEFIT.**

17 Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)) is
18 amended by striking “for emergent reasons or for reasons
19 deemed strictly in the public interest” and inserting “on
20 a case-by-case basis for urgent humanitarian reasons or
21 significant public benefit”.

22 **SEC. 192. INCLUSION IN WORLDWIDE LEVEL OF FAMILY-**
23 **SPONSORED IMMIGRANTS.**

24 (a) IN GENERAL.—Section 201(c) (8 U.S.C. 1151(c))
25 is amended—

1 (1) by amending paragraph (1)(A)(ii) to read
2 as follows:

3 “(ii) the sum of the number computed under
4 paragraph (2) and the number computed under
5 paragraph (4), plus”; and

6 (2) by adding at the end the following new
7 paragraphs:

8 “(4) The number computed under this paragraph for
9 a fiscal year is the number of aliens who were paroled into
10 the United States under section 212(d)(5) in the second
11 preceding fiscal year and who did not depart from the
12 United States within 365 days.

13 “(5) If any alien described in paragraph (4) is subse-
14 quently admitted as an alien lawfully admitted for perma-
15 nent residence, such alien shall not again be considered
16 for purposes of paragraph (1).”.

17 (b) INCLUSION OF PAROLED ALIENS.—Section 202
18 (8 U.S.C. 1152) is amended by adding at the end the fol-
19 lowing new subsection:

20 “(f)(1) For purposes of subsection (a)(2), an immi-
21 grant visa shall be considered to have been made available
22 in a fiscal year to any alien who is not an alien lawfully
23 admitted for permanent residence but who was paroled
24 into the United States under section 212(d)(5) in the sec-

1 ond preceding fiscal year and who did not depart from
 2 the United States within 365 days.

3 “(2) If any alien described in paragraph (1) is subse-
 4 quently admitted as an alien lawfully admitted for perma-
 5 nent residence, an immigrant visa shall not again be con-
 6 sidered to have been made available for purposes of sub-
 7 section (a)(2).”.

8 **PART 2—ASYLUM**

9 **SEC. 193. LIMITATIONS ON ASYLUM APPLICATIONS BY** 10 **ALIENS USING DOCUMENTS FRAUDULENTLY** 11 **OR BY EXCLUDABLE ALIENS APPREHENDED** 12 **AT SEA; USE OF SPECIAL EXCLUSION PROCE-** 13 **DURES.**

14 Section 208 (8 U.S.C. 1158) is amended by striking
 15 subsection (e) and inserting the following:

16 “(e)(1) Notwithstanding subsection (a), any alien
 17 who, in seeking entry to the United States or boarding
 18 a common carrier for the purpose of coming to the United
 19 States, presents any document which, in the determination
 20 of the immigration officer, is fraudulent, forged, stolen,
 21 or inapplicable to the person presenting the document, or
 22 otherwise contains a misrepresentation of a material fact,
 23 may not apply for or be granted asylum, unless presen-
 24 tation of the document was necessary to depart from a
 25 country in which the alien has a credible fear of persecu-

1 tion, or from which the alien has a credible fear of return
2 to persecution, and the alien traveled from such country
3 directly to the United States.

4 “(2) Notwithstanding subsection (a), an alien who
5 boards a common carrier for the purpose of coming to the
6 United States through the presentation of any document
7 which relates or purports to relate to the alien’s eligibility
8 to enter the United States, and who fails to present such
9 document to an immigration officer upon arrival at a port
10 of entry into the United States, may not apply for or be
11 granted asylum, unless presentation of such document was
12 necessary to depart from a country in which the alien has
13 a credible fear of persecution, or from which the alien has
14 a credible fear of return to persecution, and the alien trav-
15 eled from such country directly to the United States.

16 “(3) Notwithstanding subsection (a), an alien de-
17 scribed in section 235(d)(3) may not apply for or be grant-
18 ed asylum, unless the alien traveled directly from a coun-
19 try in which the alien has a credible fear of persecution,
20 or from which the alien has a credible fear of return to
21 persecution.

22 “(4) Notwithstanding paragraph (1), (2), or (3), the
23 Attorney General may, under extraordinary cir-
24 cumstances, permit an alien described in any such para-
25 graph to apply for asylum.

1 “(5)(A) When an immigration officer has determined
2 that an alien has sought entry under either of the cir-
3 cumstances described in paragraph (1) or (2), or is an
4 alien described in section 235(d)(3), or is otherwise an
5 alien subject to the special exclusion procedure of section
6 235(e), and the alien has indicated a desire to apply for
7 asylum or for withholding of deportation under section
8 243(h), the immigration officer shall refer the matter to
9 an asylum officer.

10 “(B) Such asylum officer shall interview the alien, in
11 person or by video conference, to determine whether the
12 alien has a credible fear of persecution (or of return to
13 persecution) in or from—

14 “(i) the country of such alien’s nationality or,
15 in the case of a person having no nationality, the
16 country in which such alien last habitually resided,
17 and

18 “(ii) in the case of an alien seeking asylum who
19 has sought entry under either of the circumstances
20 described in paragraph (1) or (2), or who is de-
21 scribed in section 235(d)(3), the country in which
22 the alien was last present prior to attempting entry
23 into the United States.

24 “(C) If the officer determines that the alien does not
25 have a credible fear of persecution in (or of return to per-

1 secution from) the country or countries referred to in sub-
2 paragraph (B), the alien may be specially excluded and
3 deported in accordance with section 235(e).

4 “(D) The Attorney General shall provide by regula-
5 tion for the prompt supervisory review of a determination
6 under subparagraph (C) that an alien physically present
7 in the United States does not have a credible fear of perse-
8 cution in (or of return to persecution from) the country
9 or countries referred to in subparagraph (B).

10 “(E) The Attorney General shall provide information
11 concerning the procedure described in this paragraph to
12 persons who may be eligible. An alien who is eligible for
13 such procedure pursuant to subparagraph (A) may consult
14 with a person or persons of the alien’s choosing prior to
15 the procedure or any review thereof, in accordance with
16 regulations prescribed by the Attorney General. Such con-
17 sultation shall be at no expense to the Government and
18 shall not delay the process.

19 “(6) An alien who has been determined under the
20 procedure described in paragraph (5) to have a credible
21 fear of persecution shall be taken before a special inquiry
22 officer for a hearing in accordance with section 236.

23 “(7) As used in this subsection, the term ‘asylum offi-
24 cer’ means an immigration officer who—

1 “(A) has had professional training in country
2 conditions, asylum law, and interview techniques;
3 and

4 “(B) is supervised by an officer who meets the
5 condition in subparagraph (A).

6 “(8) As used in this section, the term ‘credible fear
7 of persecution’ means that—

8 “(A) there is a substantial likelihood that the
9 statements made by the alien in support of the
10 alien’s claim are true; and

11 “(B) there is a significant possibility, in light of
12 such statements and of country conditions, that the
13 alien could establish eligibility as a refugee within
14 the meaning of section 101(a)(42)(A).”.

15 **SEC. 194. TIME LIMITATION ON ASYLUM CLAIMS.**

16 Section 208(a) (8 U.S.C. 1158(a)) is amended—

17 (1) by striking “The” and inserting the follow-
18 ing: “(1) Except as provided in paragraph (2), the”;
19 and

20 (2) by adding at the end the following:

21 “(2)(A) An application for asylum filed for the first
22 time during an exclusion or deportation proceeding shall
23 not be considered if the proceeding was commenced more
24 than one year after the alien’s entry or admission into the
25 United States.

1 “(B) An application for asylum may be considered,
 2 notwithstanding subparagraph (A), if the applicant shows
 3 good cause for not having filed within the specified period
 4 of time.”.

5 **SEC. 195. LIMITATION ON WORK AUTHORIZATION FOR ASY-**
 6 **LUM APPLICANTS.**

7 Section 208 (8 U.S.C. 1158), as amended by this Act,
 8 is further amended by adding at the end the following new
 9 subsection:

10 “(f)(1) An applicant for asylum may not engage in
 11 employment in the United States unless such applicant
 12 has submitted an application for employment authoriza-
 13 tion to the Attorney General and, subject to paragraph
 14 (2), the Attorney General has granted such authorization.

15 “(2) The Attorney General may deny any application
 16 for, or suspend or place conditions on any grant of, au-
 17 thorization for any applicant for asylum to engage in em-
 18 ployment in the United States.”.

19 **SEC. 196. INCREASED RESOURCES FOR REDUCING ASYLUM**
 20 **APPLICATION BACKLOGS.**

21 (a) PURPOSE AND PERIOD OF AUTHORIZATION.—
 22 For the purpose of reducing the number of applications
 23 pending under sections 208 and 243(h) of the Immigra-
 24 tion and Nationality Act (8 U.S.C. 1158 and 1253) as
 25 of the date of the enactment of this Act, the Attorney Gen-

1 eral shall have the authority described in subsections (b)
2 and (c) for a period of two years, beginning 90 days after
3 the date of the enactment of this Act.

4 (b) PROCEDURES FOR PROPERTY ACQUISITION ON
5 LEASING.—Notwithstanding the Federal Property and
6 Administrative Services Act of 1949 (40 U.S.C. 471 et
7 seq.), the Attorney General is authorized to expend out
8 of funds made available to the Department of Justice for
9 the administration of the Immigration and Nationality Act
10 such amounts as may be necessary for the leasing or ac-
11 quisition of property to carry out the purpose described
12 in subsection (a).

13 (c) USE OF FEDERAL RETIREES.—(1) In order to
14 carry out the purpose described in subsection (a), the At-
15 torney General may employ temporarily not more than
16 300 persons who, by reason of retirement on or before
17 January 1, 1993, are receiving—

18 (A) annuities under the provisions of sub-
19 chapter III of chapter 83 of title 5, United States
20 Code, or chapter 84 of such title;

21 (B) annuities under any other retirement sys-
22 tem for employees of the Federal Government; or

23 (C) retired or retainer pay as retired officers of
24 regular components of the uniformed services.

1 (2) In the case of a person retired under the provi-
2 sions of subchapter III of chapter 83 of title 5, United
3 States Code—

4 (A) no amounts may be deducted from the per-
5 son's pay,

6 (B) the annuity of such person may not be ter-
7 minated,

8 (C) payment of the annuity to such person may
9 not be discontinued, and

10 (D) the annuity of such person may not be re-
11 computed, under section 8344 of such title,
12 by reason of the temporary employment authorized in
13 paragraph (1).

14 (3) In the case of a person retired under the provi-
15 sions of chapter 84 of title 5, United States Code—

16 (A) no amounts may be deducted from the per-
17 son's pay,

18 (B) contributions to the Civil Service Retire-
19 ment and Disability Fund may not be made, and

20 (C) the annuity of such person may not be re-
21 computed, under section 8468 of such title,
22 by reason of the temporary employment authorized in
23 paragraph (1).

24 (4) The retired or retainer pay of a retired officer
25 of a regular component of a uniformed service may not

1 be reduced under section 5532 of title 5, United States
 2 Code, by reason of temporary employment authorized in
 3 paragraph (1).

4 (5) The President shall apply the provisions of para-
 5 graphs (2) and (3) to persons receiving annuities de-
 6 scribed in paragraph (1)(B) in the same manner and to
 7 the same extent as such provisions apply to persons receiv-
 8 ing annuities described in paragraph (1)(A).

9 **PART 3—CUBAN ADJUSTMENT ACT**

10 **SEC. 197. REPEAL AND EXCEPTION.**

11 (a) REPEAL.—Subject to subsection (b), Public Law
 12 89–732, as amended, is hereby repealed.

13 (b) SAVINGS PROVISIONS.—(1) The provisions of
 14 such Act shall continue to apply on a case-by-case basis
 15 with respect to individuals paroled into the United States
 16 pursuant to the Cuban Migration Agreement of 1995.

17 (2) The individuals obtaining lawful permanent resi-
 18 dent status under such provisions in a fiscal year shall
 19 be treated as if they were family-sponsored immigrants ac-
 20 quiring the status of aliens lawfully admitted to the United
 21 States in such fiscal year for purposes of the world-wide
 22 and per-country levels of immigration described in sections
 23 201 and 202 of the Immigration and Nationality Act, ex-
 24 cept that any individual who previously was included in
 25 the number computed under section 201(c)(4) of the Im-

1 migration and Nationality Act, as added by section 192
2 of this Act, or had been counted for purposes of section
3 202 of the Immigration and Nationality Act, as amended
4 by section 192 of this Act, shall not be so treated.

5 **Subtitle C—Effective Dates**

6 **SEC. 198. EFFECTIVE DATES.**

7 (a) IN GENERAL.—Except as otherwise provided in
8 this title and subject to subsection (b), this title, and the
9 amendments made by this title, shall take effect on the
10 date of the enactment of this Act.

11 (b) OTHER EFFECTIVE DATES.—

12 (1) EFFECTIVE DATES FOR PROVISIONS DEAL-
13 ING WITH DOCUMENT FRAUD; REGULATIONS TO IM-
14 PLEMENT.—

15 (A) IN GENERAL.—The amendments made
16 by sections 131, 132, 141, and 195 shall be ef-
17 fective upon the date of the enactment of this
18 Act and shall apply to aliens who arrive in or
19 seek admission to the United States on or after
20 such date.

21 (B) REGULATIONS.—Notwithstanding any
22 other provision of law, the Attorney General
23 may issue interim final regulations to imple-
24 ment the provisions of the amendments listed in
25 subparagraph (A) at any time on or after the

1 date of the enactment of this Act, which regula-
 2 tions may become effective upon publication
 3 without prior notice or opportunity for public
 4 comment.

5 (2) ALIEN SMUGGLING, EXCLUSION, AND DE-
 6 PORTATION.—The amendments made by sections
 7 122, 126, 128, 129, 143, and 150(b) shall apply
 8 with respect to offenses occurring on or after the
 9 date of the enactment of this Act.

10 **TITLE II—FINANCIAL**
 11 **RESPONSIBILITY**
 12 **Subtitle A—Receipt of Certain**
 13 **Government Benefits**

14 **SEC. 201. INELIGIBILITY OF EXCLUDABLE, DEPORTABLE,**
 15 **AND NONIMMIGRANT ALIENS.**

16 (a) PUBLIC ASSISTANCE AND BENEFITS.—

17 (1) IN GENERAL.—Notwithstanding any other
 18 provision of law, an ineligible alien (as defined in
 19 subsection (f)(2)) shall not be eligible to receive—

20 (A) any benefits under a public assistance
 21 program (as defined in subsection (f)(3)), ex-
 22 cept—

23 (i) emergency medical services under
 24 title XIX of the Social Security Act,

1 (ii) subject to paragraph (4), prenatal
2 and postpartum services under title XIX of
3 the Social Security Act,

4 (iii) short-term emergency disaster re-
5 lief,

6 (iv) assistance or benefits under the
7 National School Lunch Act,

8 (v) assistance or benefits under the
9 Child Nutrition Act of 1966,

10 (vi) public health assistance for immu-
11 nizations and, if the Secretary of Health
12 and Human Services determines that it is
13 necessary to prevent the spread of a seri-
14 ous communicable disease, for testing and
15 treatment for such diseases, and

16 (vii) such other service or assistance
17 (such as soup kitchens, crisis counseling,
18 intervention (including intervention for do-
19 mestic violence), and short-term shelter) as
20 the Attorney General specifies, in the At-
21 torney General's sole and unreviewable dis-
22 cretion, after consultation with the heads
23 of appropriate Federal agencies, if—

24 (I) such service or assistance is
25 delivered at the community level, in-

1 including through public or private non-
2 profit agencies;

3 (II) such service or assistance is
4 necessary for the protection of life,
5 safety, or public health; and

6 (III) such service or assistance or
7 the amount or cost of such service or
8 assistance is not conditioned on the
9 recipient's income or resources; or

10 (B) any grant, contract, loan, professional
11 license, or commercial license provided or fund-
12 ed by any agency of the United States or any
13 State or local government entity, except, with
14 respect to a nonimmigrant authorized to work
15 in the United States, any professional or com-
16 mercial license required to engage in such work,
17 if the nonimmigrant is otherwise qualified for
18 such license.

19 (2) BENEFITS OF RESIDENCE.—Notwithstand-
20 ing any other provision of law, no State or local gov-
21 ernment entity shall consider any ineligible alien as
22 a resident when to do so would place such alien in
23 a more favorable position, regarding access to, or
24 the cost of, any benefit or government service, than

1 a United States citizen who is not regarded as such
2 a resident.

3 (3) NOTIFICATION OF ALIENS.—

4 (A) IN GENERAL.—The agency administer-
5 ing a program referred to in paragraph (1)(A)
6 or providing benefits referred to in paragraph
7 (1)(B) shall, directly or, in the case of a Fed-
8 eral agency, through the States, notify individ-
9 ually or by public notice, all ineligible aliens
10 who are receiving benefits under a program re-
11 ferred to in paragraph (1)(A), or are receiving
12 benefits referred to in paragraph (1)(B), as the
13 case may be, immediately prior to the date of
14 the enactment of this Act and whose eligibility
15 for the program is terminated by reason of this
16 subsection.

17 (B) FAILURE TO GIVE NOTICE.—Nothing
18 in subparagraph (A) shall be construed to re-
19 quire or authorize continuation of such eligi-
20 bility if the notice required by such paragraph
21 is not given.

22 (4) LIMITATION ON PREGNANCY SERVICES FOR
23 UNDOCUMENTED ALIENS.—

24 (A) 3-YEAR CONTINUOUS RESIDENCE.—An
25 ineligible alien may not receive the services de-

1 scribed in paragraph (1)(A)(ii) unless such
2 alien can establish proof of continuous residence
3 in the United States for not less than 3 years,
4 as determined in accordance with section
5 245a.2(d)(3) of title 8, Code of Federal Regula-
6 tions as in effect on the day before the date of
7 the enactment of this Act.

8 (B) LIMITATION ON EXPENDITURES.—Not
9 more than \$120,000,000 in outlays may be ex-
10 pended under title XIX of the Social Security
11 Act for reimbursement of services described in
12 paragraph (1)(A)(ii) that are provided to indi-
13 viduals described in subparagraph (A).

14 (C) CONTINUED SERVICES BY CURRENT
15 STATES.—States that have provided services de-
16 scribed in paragraph (1)(A)(ii) for a period of
17 3 years before the date of the enactment of this
18 Act shall continue to provide such services and
19 shall be reimbursed by the Federal Government
20 for the costs incurred in providing such serv-
21 ices. States that have not provided such services
22 before the date of the enactment of this Act,
23 but elect to provide such services after such
24 date, shall be reimbursed for the costs incurred
25 in providing such services. In no case shall

1 States be required to provide services in excess
2 of the amounts provided in subparagraph (B).

3 (b) UNEMPLOYMENT BENEFITS.—Notwithstanding
4 any other provision of law, only eligible aliens who have
5 been granted employment authorization pursuant to Fed-
6 eral law, and United States citizens or nationals, may re-
7 ceive unemployment benefits payable out of Federal funds,
8 and such eligible aliens may receive only the portion of
9 such benefits which is attributable to the authorized em-
10 ployment.

11 (c) SOCIAL SECURITY BENEFITS.—

12 (1) IN GENERAL.—Notwithstanding any other
13 provision of law, only eligible aliens who have been
14 granted employment authorization pursuant to Fed-
15 eral law and United States citizen or nationals may
16 receive any benefit under title II of the Social Secu-
17 rity Act, and such eligible aliens may receive only
18 the portion of such benefits which is attributable to
19 the authorized employment.

20 (2) NO REFUND OR REIMBURSEMENT.—Not-
21 withstanding any other provision of law, no tax or
22 other contribution required pursuant to the Social
23 Security Act (other than by an eligible alien who has
24 been granted employment authorization pursuant to

1 Federal law, or by an employer of such alien) shall
2 be refunded or reimbursed, in whole or in part.

3 (d) HOUSING ASSISTANCE PROGRAMS.—Not later
4 than 90 days after the date of the enactment of this Act,
5 the Secretary of Housing and Urban Development shall
6 submit a report to the Committee on the Judiciary and
7 the Committee on Banking, Housing, and Urban Affairs
8 of the Senate, and the Committee on the Judiciary and
9 the Committee on Banking and Financial Services of the
10 House of Representatives, describing the manner in which
11 the Secretary is enforcing section 214 of the Housing and
12 Community Development Act of 1980 (Public Law 96–
13 399; 94 Stat. 1637) and containing statistics with respect
14 to the number of individuals denied financial assistance
15 under such section.

16 (e) NONPROFIT, CHARITABLE ORGANIZATIONS.—

17 (1) IN GENERAL.—Nothing in this Act shall be
18 construed as requiring a nonprofit charitable organi-
19 zation operating any program of assistance provided
20 or funded, in whole or in part, by the Federal Gov-
21 ernment to—

22 (A) determine, verify, or otherwise require
23 proof of the eligibility, as determined under this
24 title, of any applicant for benefits or assistance
25 under such program; or

1 (B) deem that the income or assets of any
2 applicant for benefits or assistance under such
3 program include the income or assets described
4 in section 204(b).

5 (2) NO EFFECT ON FEDERAL AUTHORITY TO
6 DETERMINE COMPLIANCE.—Nothing in this sub-
7 section shall be construed as prohibiting the Federal
8 Government from determining the eligibility, under
9 this section or section 204, of any individual for ben-
10 efits under a public assistance program (as defined
11 in subsection (f)(3)) or for government benefits (as
12 defined in subsection (f)(4)).

13 (f) DEFINITIONS.—For the purposes of this section—

14 (1) ELIGIBLE ALIEN.—The term “eligible
15 alien” means an individual who is—

16 (A) an alien lawfully admitted for perma-
17 nent residence under the Immigration and Na-
18 tionality Act,

19 (B) an alien granted asylum under section
20 208 of such Act,

21 (C) a refugee admitted under section 207
22 of such Act,

23 (D) an alien whose deportation has been
24 withheld under section 243(h) of such Act, or

1 (E) an alien paroled into the United States
2 under section 212(d)(5) of such Act for a pe-
3 riod of at least 1 year.

4 (2) INELIGIBLE ALIEN.—The term “ineligible
5 alien” means an individual who is not—

6 (A) a United States citizen or national; or

7 (B) an eligible alien.

8 (3) PUBLIC ASSISTANCE PROGRAM.—The term
9 “public assistance program” means any program of
10 assistance provided or funded, in whole or in part,
11 by the Federal Government or any State or local
12 government entity, for which eligibility for benefits is
13 based on need.

14 (4) GOVERNMENT BENEFITS.—The term “gov-
15 ernment benefits” includes—

16 (A) any grant, contract, loan, professional
17 license, or commercial license provided or fund-
18 ed by any agency of the United States or any
19 State or local government entity, except, with
20 respect to a nonimmigrant authorized to work
21 in the United States, any professional or com-
22 mercial license required to engage in such work,
23 if the nonimmigrant is otherwise qualified for
24 such license;

1 (B) unemployment benefits payable out of
2 Federal funds;

3 (C) benefits under title II of the Social Se-
4 curity Act;

5 (D) financial assistance for purposes of
6 section 214(a) of the Housing and Community
7 Development Act of 1980 (Public Law 96–399;
8 94 Stat. 1637); and

9 (E) benefits based on residence that are
10 prohibited by subsection (a)(2).

11 **SEC. 202. DEFINITION OF “PUBLIC CHARGE” FOR PUR-**
12 **POSES OF DEPORTATION.**

13 (a) IN GENERAL.—Section 241(a)(5) (8 U.S.C.
14 1251(a)(5)) is amended to read as follows:

15 “(5) PUBLIC CHARGE.—

16 “(A) IN GENERAL.—Any alien who during
17 the public charge period becomes a public
18 charge, regardless of when the cause for becom-
19 ing a public charge arises, is deportable.

20 “(B) EXCEPTIONS.—Subparagraph (A)
21 shall not apply if the alien is a refugee or has
22 been granted asylum, or if the cause of the
23 alien’s becoming a public charge—

24 “(i) arose after entry (in the case of
25 an alien who entered as an immigrant) or

1 after adjustment to lawful permanent resi-
2 dent status (in the case of an alien who en-
3 tered as a nonimmigrant), and

4 “(ii) was a physical illness, or physical
5 injury, so serious the alien could not work
6 at any job, or a mental disability that re-
7 quired continuous hospitalization.

8 “(C) DEFINITIONS.—

9 “(i) PUBLIC CHARGE PERIOD.—For
10 purposes of subparagraph (A), the term
11 ‘public charge period’ means the period be-
12 ginning on the date the alien entered the
13 United States and ending—

14 “(I) for an alien who entered the
15 United States as an immigrant, 5
16 years after entry, or

17 “(II) for an alien who entered
18 the United States as a nonimmigrant,
19 5 years after the alien adjusted to
20 permanent resident status.

21 “(ii) PUBLIC CHARGE.—For purposes
22 of subparagraph (A), the term ‘public
23 charge’ includes any alien who receives
24 benefits under any program described in

1 subparagraph (D) for an aggregate period
2 of more than 12 months.

3 “(D) PROGRAMS DESCRIBED.—The pro-
4 grams described in this subparagraph are the
5 following:

6 “(i) The aid to families with depend-
7 ent children program under title IV of the
8 Social Security Act.

9 “(ii) The medicaid program under
10 title XIX of the Social Security Act.

11 “(iii) The food stamp program under
12 the Food Stamp Act of 1977.

13 “(iv) The supplemental security in-
14 come program under title XVI of the So-
15 cial Security Act.

16 “(v) Any State general assistance pro-
17 gram.

18 “(vi) Any other program of assistance
19 funded, in whole or in part, by the Federal
20 Government or any State or local govern-
21 ment entity, for which eligibility for bene-
22 fits is based on need, except the programs
23 listed as exceptions in clauses (i) through
24 (vi) of section 201(a)(1)(A) of the Immi-
25 gration Reform Act of 1996.”.

1 (b) CONSTRUCTION.—Nothing in subparagraph (B),
2 (C), or (D) of section 241(a)(5) of the Immigration and
3 Nationality Act, as amended by subsection (a), may be
4 construed to affect or apply to any determination of an
5 alien as a public charge made before the date of the enact-
6 ment of this Act.

7 (c) REVIEW OF STATUS.—

8 (1) IN GENERAL.—In reviewing any application
9 by an alien for benefits under section 216, section
10 245, or chapter 2 of title III of the Immigration and
11 Nationality Act, the Attorney General shall deter-
12 mine whether or not the applicant is described in
13 section 241(a)(5)(A) of such Act, as so amended.

14 (2) GROUNDS FOR DENIAL.—If the Attorney
15 General determines that an alien is described in sec-
16 tion 241(a)(5)(A) of the Immigration and National-
17 ity Act, the Attorney General shall deny such appli-
18 cation and shall institute deportation proceedings
19 with respect to such alien, unless the Attorney Gen-
20 eral exercises discretion to withhold or suspend de-
21 portation pursuant to any other section of such Act.

22 (d) EFFECTIVE DATE.—This section and the amend-
23 ments made by this section shall apply to aliens who enter
24 the United States on or after the date of the enactment
25 of this Act and to aliens who entered as nonimmigrants

1 before such date but adjust or apply to adjust their status
2 after such date.

3 **SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF**
4 **SUPPORT.**

5 (a) ENFORCEABILITY.—No affidavit of support may
6 be relied upon by the Attorney General or by any consular
7 officer to establish that an alien is not excludable as a
8 public charge under section 212(a)(4) of the Immigration
9 and Nationality Act unless such affidavit is executed as
10 a contract—

11 (1) which is legally enforceable against the
12 sponsor by the sponsored individual, or by the Fed-
13 eral Government or any State, district, territory, or
14 possession of the United States (or any subdivision
15 of such State, district, territory, or possession of the
16 United States) that provides any benefit described in
17 section 241(a)(5)(D), as amended by section 202(a)
18 of this Act, but not later than 10 years after the
19 sponsored individual last receives any such benefit;

20 (2) in which the sponsor agrees to financially
21 support the sponsored individual, so that he or she
22 will not become a public charge, until the sponsored
23 individual has worked in the United States for 40
24 qualifying quarters or has become a United States
25 citizen, whichever occurs first; and

1 (3) in which the sponsor agrees to submit to
2 the jurisdiction of any Federal or State court for the
3 purpose of actions brought under subsection (d) or
4 (e).

5 (b) FORMS.—Not later than 90 days after the date
6 of the enactment of this Act, the Secretary of State, the
7 Attorney General, and the Secretary of Health and
8 Human Services shall jointly formulate the affidavit of
9 support described in this section.

10 (c) NOTIFICATION OF CHANGE OF ADDRESS.—

11 (1) GENERAL REQUIREMENT.—The sponsor
12 shall notify the Attorney General and the State, dis-
13 trict, territory, or possession in which the sponsored
14 individual is currently a resident within 30 days of
15 any change of address of the sponsor during the pe-
16 riod specified in subsection (a)(1).

17 (2) PENALTY.—Any person subject to the re-
18 quirement of paragraph (1) who fails to satisfy such
19 requirement shall, after notice and opportunity to be
20 heard, be subject to a civil penalty of—

21 (A) not less than \$250 or more than
22 \$2,000, or

23 (B) if such failure occurs with knowledge
24 that the sponsored individual has received any
25 benefit described in section 241(a)(5)(D) of the

1 Immigration and Nationality Act, as amended
2 by section 202(a) of this Act, not less than
3 \$2,000 or more than \$5,000.

4 (d) REIMBURSEMENT OF GOVERNMENT EX-
5 PENSES.—

6 (1) IN GENERAL.—

7 (A) REQUEST FOR REIMBURSEMENT.—

8 Upon notification that a sponsored individual
9 has received any benefit described in section
10 241(a)(5)(D) of the Immigration and National-
11 ity Act, as amended by section 202(a) of this
12 Act, the appropriate Federal, State, or local of-
13 ficial shall request reimbursement from the
14 sponsor for the amount of such assistance.

15 (B) REGULATIONS.—The Commissioner of
16 Social Security shall prescribe such regulations
17 as may be necessary to carry out subparagraph
18 (A). Such regulations shall provide that notifi-
19 cation be sent to the sponsor's last known ad-
20 dress by certified mail.

21 (2) ACTION AGAINST SPONSOR.—If within 45
22 days after requesting reimbursement, the appro-
23 priate Federal, State, or local agency has not re-
24 ceived a response from the sponsor indicating a will-
25 ingness to make payments, an action may be

1 brought against the sponsor pursuant to the affida-
2 vit of support.

3 (3) FAILURE TO MEET REPAYMENT TERMS.—If
4 the sponsor agrees to make payments, but fails to
5 abide by the repayment terms established by the
6 agency, the agency may, within 60 days of such fail-
7 ure, bring an action against the sponsor pursuant to
8 the affidavit of support.

9 (e) JURISDICTION.—

10 (1) IN GENERAL.—An action to enforce an affi-
11 davit of support executed under subsection (a) may
12 be brought against the sponsor in any Federal or
13 State court—

14 (A) by a sponsored individual, with respect
15 to financial support; or

16 (B) by a Federal, State, or local agency,
17 with respect to reimbursement.

18 (2) COURT MAY NOT DECLINE TO HEAR
19 CASE.—For purposes of this section, no Federal or
20 State court shall decline for lack of subject matter
21 or personal jurisdiction to hear any action brought
22 against a sponsor under paragraph (1) if—

23 (A) the sponsored individual is a resident
24 of the State in which the court is located, or re-

1 ceived public assistance while residing in the
2 State; and

3 (B) such sponsor has received service of
4 process in accordance with applicable law.

5 (f) DEFINITIONS.—For purposes of this section—

6 (1) SPONSOR.—The term “sponsor” means an
7 individual who—

8 (A) is a United States citizen or national
9 or an alien who is lawfully admitted to the
10 United States for permanent residence;

11 (B) is at least 18 years of age;

12 (C) is domiciled in any of the several
13 States of the United States, the District of Co-
14 lumbia, or any territory or possession of the
15 United States; and

16 (D) demonstrates the means to maintain
17 an annual income equal to at least 125 percent
18 of the Federal poverty line for the individual
19 and the individual’s family (including the spon-
20 sored alien and any other alien sponsored by
21 the individual), through evidence that includes
22 a copy of the individual’s Federal income tax
23 return for the 3 most recent taxable years
24 (which returns need show such level of annual
25 income only in the most recent taxable year)

1 and a written statement, executed under oath
2 or as permitted under penalty of perjury under
3 section 1746 of title 28, United States Code,
4 that the copies are true copies of such returns.

5 In the case of an individual who is on active duty
6 (other than active duty for training) in the Armed
7 Forces of the United States, subparagraph (D) shall
8 be applied by substituting “100 percent” for “125
9 percent”.

10 (2) FEDERAL POVERTY LINE.—The term “Fed-
11 eral poverty line” means the level of income equal to
12 the official poverty line (as defined by the Director
13 of the Office of Management and Budget, as revised
14 annually by the Secretary of Health and Human
15 Services, in accordance with section 673(2) of the
16 Omnibus Budget Reconciliation Act of 1981 (42
17 U.S.C. 9902)) that is applicable to a family of the
18 size involved.

19 (3) QUALIFYING QUARTER.—The term “qualify-
20 ing quarter” means a three-month period in which
21 the sponsored individual has—

22 (A) earned at least the minimum necessary
23 for the period to count as one of the 40 quar-
24 ters required to qualify for social security re-
25 tirement benefits;

1 (B) not received need-based public assist-
 2 ance; and

3 (C) had income tax liability for the tax
 4 year of which the period was part.

5 **SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RE-**
 6 **SOURCES TO FAMILY-SPONSORED IMMI-**
 7 **GRANTS.**

8 (a) DEEMING REQUIREMENT FOR FEDERAL AND
 9 FEDERALLY FUNDED PROGRAMS.—Subject to subsection
 10 (d), for purposes of determining the eligibility of an alien
 11 for benefits, and the amount of benefits, under any public
 12 assistance program (as defined in section 201(f)(3)), the
 13 income and resources described in subsection (b) shall,
 14 notwithstanding any other provision of law, be deemed to
 15 be the income and resources of such alien.

16 (b) DEEMED INCOME AND RESOURCES.—The income
 17 and resources described in this subsection include the in-
 18 come and resources of—

19 (1) any person who, as a sponsor of an alien's
 20 entry into the United States, or in order to enable
 21 an alien lawfully to remain in the United States, ex-
 22 ecuted an affidavit of support or similar agreement
 23 with respect to such alien, and

24 (2) the sponsor's spouse.

1 (c) LENGTH OF DEEMING PERIOD.—The require-
 2 ment of subsection (a) shall apply for the period for which
 3 the sponsor has agreed, in such affidavit or agreement,
 4 to provide support for such alien, or for a period of 5 years
 5 beginning on the day such alien was first lawfully in the
 6 United States after the execution of such affidavit or
 7 agreement, whichever period is longer.

8 (d) EXCEPTIONS.—

9 (1) INDIGENCE.—

10 (A) IN GENERAL.—If a determination de-
 11 scribed in subparagraph (B) is made, the
 12 amount of income and resources of the sponsor
 13 or the sponsor's spouse which shall be attrib-
 14 uted to the sponsored alien shall not exceed the
 15 amount actually provided for a period—

16 (i) beginning on the date of such de-
 17 termination and ending 12 months after
 18 such date, or

19 (ii) if the address of the sponsor is
 20 unknown to the sponsored alien, beginning
 21 on the date of such determination and end-
 22 ing on the date that is 12 months after the
 23 address of the sponsor becomes known to
 24 the sponsored alien or to the agency (which

1 shall inform such alien of the address with-
2 in 7 days).

3 (B) DETERMINATION DESCRIBED.—A de-
4 termination described in this subparagraph is a
5 determination by an agency that a sponsored
6 alien would, in the absence of the assistance
7 provided by the agency, be unable to obtain
8 food and shelter, taking into account the alien's
9 own income, plus any cash, food, housing, or
10 other assistance provided by other individuals,
11 including the sponsor.

12 (2) EDUCATION ASSISTANCE.—

13 (A) IN GENERAL.—The requirements of
14 subsection (a) shall not apply with respect to
15 sponsored aliens who have received, or have
16 been approved to receive, student assistance
17 under title IV, V, IX, or X of the Higher Edu-
18 cation Act of 1965 in an academic year which
19 ends or begins in the calendar year in which
20 this Act is enacted.

21 (B) DURATION.—The exception described
22 in subparagraph (A) shall apply only for the pe-
23 riod normally required to complete the course of
24 study for which the sponsored alien receives as-
25 sistance described in that subparagraph.

1 (3) CERTAIN SERVICES AND ASSISTANCE.—The
2 requirements of subsection (a) shall not apply to any
3 service or assistance described in section
4 201(a)(1)(A)(vii).

5 (e) DEEMING AUTHORITY TO STATE AND LOCAL
6 AGENCIES.—

7 (1) IN GENERAL.—Notwithstanding any other
8 provision of law, but subject to exceptions equivalent
9 to the exceptions described in subsection (d), the
10 State or local government may, for purposes of de-
11 termining the eligibility of an alien for benefits, and
12 the amount of benefits, under any State or local pro-
13 gram of assistance for which eligibility is based on
14 need, or any need-based program of assistance ad-
15 ministered by a State or local government (other
16 than a program of assistance provided or funded, in
17 whole or in part, by the Federal Government), re-
18 quire that the income and resources described in
19 subsection (b) be deemed to be the income and re-
20 sources of such alien.

21 (2) LENGTH OF DEEMING PERIOD.—Subject to
22 exceptions equivalent to the exceptions described in
23 subsection (d), a State or local government may im-
24 pose the requirement described in paragraph (1) for
25 the period for which the sponsor has agreed, in such

1 affidavit or agreement, to provide support for such
2 alien, or for a period of 5 years beginning on the day
3 such alien was first lawfully in the United States
4 after the execution of such affidavit or agreement,
5 whichever period is longer.

6 **SEC. 205. VERIFICATION OF STUDENT ELIGIBILITY FOR**
7 **POSTSECONDARY FEDERAL STUDENT FINAN-**
8 **CIAL ASSISTANCE.**

9 (a) REPORT REQUIREMENT.—Not later than one
10 year after the date of the enactment of this Act, the Sec-
11 retary of Education and the Commissioner of Social Secu-
12 rity shall jointly submit to the Congress a report on the
13 computer matching program of the Department of Edu-
14 cation under section 484(p) of the Higher Education Act
15 of 1965.

16 (b) REPORT ELEMENTS.—The report shall include
17 the following:

18 (1) An assessment by the Secretary and the
19 Commissioner of the effectiveness of the computer
20 matching program, and a justification for such as-
21 sessment.

22 (2) The ratio of inaccurate matches under the
23 program to successful matches.

24 (3) Such other information as the Secretary
25 and the Commissioner jointly consider appropriate.

1 **SEC. 206. AUTHORITY OF STATES AND LOCALITIES TO**
2 **LIMIT ASSISTANCE TO ALIENS AND TO DIS-**
3 **TINGUISH AMONG CLASSES OF ALIENS IN**
4 **PROVIDING GENERAL PUBLIC ASSISTANCE.**

5 (a) IN GENERAL.—Subject to subsection (b) and not-
6 withstanding any other provision of law, a State or local
7 government may prohibit or otherwise limit or restrict the
8 eligibility of aliens or classes of aliens for programs of gen-
9 eral cash public assistance furnished under the law of the
10 State or a political subdivision of a State.

11 (b) LIMITATION.—The authority provided for under
12 subsection (a) may be exercised only to the extent that
13 any prohibitions, limitations, or restrictions imposed by a
14 State or local government are not more restrictive than
15 the prohibitions, limitations, or restrictions imposed under
16 comparable Federal programs. For purposes of this sec-
17 tion, attribution to an alien of a sponsor's income and re-
18 sources (as described in section 204(b)) for purposes of
19 determining eligibility for, and the amount of, benefits
20 shall be considered less restrictive than a prohibition of
21 eligibility for such benefits.

22 **SEC. 207. EARNED INCOME TAX CREDIT DENIED TO INDIV-**
23 **IDUALS NOT CITIZENS OR LAWFUL PERMA-**
24 **NENT RESIDENTS.**

25 (a) IN GENERAL.—

1 (1) LIMITATION.—Notwithstanding any other
 2 provision of law, an individual may not receive an
 3 earned income tax credit for any year in which such
 4 individual was not, for the entire year, either a Unit-
 5 ed States citizen or national or a lawful permanent
 6 resident.

7 (2) IDENTIFICATION NUMBER REQUIRED.—Sec-
 8 tion 32(c)(1) of the Internal Revenue Code of 1986
 9 (relating to individuals eligible to claim the earned
 10 income tax credit) is amended by adding at the end
 11 the following new subparagraph:

12 “(F) IDENTIFICATION NUMBER REQUIRE-
 13 MENT.—The term ‘eligible individual’ does not
 14 include any individual who does not include on
 15 the return of tax for the taxable year—

16 “(i) such individual’s taxpayer identi-
 17 fication number, and

18 “(ii) if the individual is married (with-
 19 in the meaning of section 7703), the tax-
 20 payer identification number of such indi-
 21 vidual’s spouse.”.

22 (b) SPECIAL IDENTIFICATION NUMBER.—Section 32
 23 of the Internal Revenue Code of 1986 is amended by add-
 24 ing at the end the following new subsection:

1 “(k) IDENTIFICATION NUMBERS.—Solely for pur-
 2 poses of subsections (c)(1)(F) and (c)(3)(D), a taxpayer
 3 identification number means a social security number is-
 4 sued to an individual by the Social Security Administra-
 5 tion (other than a social security number issued pursuant
 6 to clause (II) (or that portion of clause (III) that relates
 7 to clause (II)) of section 205(c)(2)(B)(i) of the Social Se-
 8 curity Act).”.

9 (c) EXTENSION OF PROCEDURES APPLICABLE TO
 10 MATHEMATICAL OR CLERICAL ERRORS.—Section
 11 6213(g)(2) of the Internal Revenue Code of 1986 (relating
 12 to the definition of mathematical or clerical errors) is
 13 amended—

14 (1) by striking “and” at the end of subpara-
 15 graph (D),

16 (2) by striking the period at the end of sub-
 17 paragraph (E) and inserting “, and”, and

18 (3) by inserting after subparagraph (E) the fol-
 19 lowing new subparagraph:

20 “(F) an unintended omission of a correct
 21 taxpayer identification number required under
 22 section 32 (relating to the earned income tax
 23 credit) to be included on a return.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1995.

4 **SEC. 208. INCREASED MAXIMUM CRIMINAL PENALTIES FOR**
5 **FORGING OR COUNTERFEITING SEAL OF A**
6 **FEDERAL DEPARTMENT OR AGENCY TO FA-**
7 **CILITATE BENEFIT FRAUD BY AN UNLAWFUL**
8 **ALIEN.**

9 Section 506 of title 18, United States Code, is
10 amended to read as follows:

11 **“§ 506. Seals of departments or agencies**

12 “(a) Whoever—

13 “(1) falsely makes, forges, counterfeits, muti-
14 lates, or alters the seal of any department or agency
15 of the United States, or any facsimile thereof;

16 “(2) knowingly uses, affixes, or impresses any
17 such fraudulently made, forged, counterfeited, muti-
18 lated, or altered seal or facsimile thereof to or upon
19 any certificate, instrument, commission, document,
20 or paper of any description; or

21 “(3) with fraudulent intent, possesses, sells, of-
22 fers for sale, furnishes, offers to furnish, gives away,
23 offers to give away, transports, offers to transport,
24 imports, or offers to import any such seal or fac-
25 simile thereof, knowing the same to have been so

1 falsely made, forged, counterfeited, mutilated, or al-
2 tered,
3 shall be fined under this title, or imprisoned not more than
4 5 years, or both.

5 “(b) Notwithstanding subsection (a) or any other
6 provision of law, if a forged, counterfeited, mutilated, or
7 altered seal of a department or agency of the United
8 States, or any facsimile thereof, is—

9 “(1) so forged, counterfeited, mutilated, or al-
10 tered;

11 “(2) used, affixed, or impressed to or upon any
12 certificate, instrument, commission, document, or
13 paper of any description; or

14 “(3) with fraudulent intent, possessed, sold, of-
15 fered for sale, furnished, offered to furnish, given
16 away, offered to give away, transported, offered to
17 transport, imported, or offered to import,

18 with the intent or effect of facilitating an unlawful alien’s
19 application for, or receipt of, a Federal benefit, the pen-
20 alties which may be imposed for each offense under sub-
21 section (a) shall be two times the maximum fine, and 3
22 times the maximum term of imprisonment, or both, that
23 would otherwise be imposed for an offense under sub-
24 section (a).

25 “(c) For purposes of this section—

1 “(1) the term ‘Federal benefit’ means—

2 “(A) the issuance of any grant, contract,
3 loan, professional license, or commercial license
4 provided by any agency of the United States or
5 by appropriated funds of the United States; and

6 “(B) any retirement, welfare, Social Secu-
7 rity, health (including treatment of an emer-
8 gency medical condition in accordance with sec-
9 tion 1903(v) of the Social Security Act (19
10 U.S.C. 1396b(v))), disability, veterans, public
11 housing, education, food stamps, or unemploy-
12 ment benefit, or any similar benefit for which
13 payments or assistance are provided by an
14 agency of the United States or by appropriated
15 funds of the United States;

16 “(2) the term ‘unlawful alien’ means an individ-
17 ual who is not—

18 “(A) a United States citizen or national;

19 “(B) an alien lawfully admitted for perma-
20 nent residence under the Immigration and Na-
21 tionality Act;

22 “(C) an alien granted asylum under sec-
23 tion 208 of such Act;

24 “(D) a refugee admitted under section 207
25 of such Act;

1 “(E) an alien whose deportation has been
2 withheld under section 243(h) of such Act; or

3 “(F) an alien paroled into the United
4 States under section 215(d)(5) of such Act for
5 a period of at least 1 year; and

6 “(3) each instance of forgery, counterfeiting,
7 mutilation, or alteration shall constitute a separate
8 offense under this section.”.

9 **SEC. 209. STATE OPTION UNDER THE MEDICAID PROGRAM**
10 **TO PLACE ANTI-FRAUD INVESTIGATORS IN**
11 **HOSPITALS.**

12 (a) IN GENERAL.—Section 1902(a) of the Social Se-
13 curity Act (42 U.S.C. 1396a(a)) is amended—

14 (1) by striking “and” at the end of paragraph
15 (61);

16 (2) by striking the period at the end of para-
17 graph (62) and inserting “; and”; and

18 (3) by adding after paragraph (62) the follow-
19 ing new paragraph:

20 “(63) in the case of a State that is certified by
21 the Attorney General as a high illegal immigration
22 State (as determined by the Attorney General), at
23 the election of the State, establish and operate a
24 program for the placement of anti-fraud investiga-
25 tors in State, county, and private hospitals located

1 in the State to verify the immigration status and in-
2 come eligibility of applicants for medical assistance
3 under the State plan prior to the furnishing of medi-
4 cal assistance.”.

5 (b) PAYMENT.—Section 1903 of the Social Security
6 Act (42 U.S.C. 1396b) is amended—

7 (1) by striking “plus” at the end of paragraph
8 (6);

9 (2) by striking the period at the end of para-
10 graph (7) and inserting “; plus”; and

11 (3) by adding at the end the following new
12 paragraph:

13 “(8) an amount equal to the Federal medical
14 assistance percentage (as defined in section 1905(b))
15 of the total amount expended during such quarter
16 which is attributable to operating a program under
17 section 1902(a)(63).”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 subsections (a) and (b) shall take effect on the first day
20 of the first calendar quarter beginning after the date of
21 the enactment of this Act.

22 **SEC. 210. COMPUTATION OF TARGETED ASSISTANCE.**

23 Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended
24 by adding at the end the following new subparagraph:

1 “(C) Except for the Targeted Assistance Ten Percent
2 Discretionary Program, all grants made available under
3 this paragraph for a fiscal year shall be allocated by the
4 Office of Refugee Resettlement in a manner that ensures
5 that each qualifying county receives the same amount of
6 assistance for each refugee and entrant residing in the
7 county as of the beginning of the fiscal year who arrived
8 in the United States not earlier than 60 months before
9 the beginning of such fiscal year.”.

10 **Subtitle B—Miscellaneous**
11 **Provisions**

12 **SEC. 211. REIMBURSEMENT OF STATES AND LOCALITIES**
13 **FOR EMERGENCY MEDICAL ASSISTANCE FOR**
14 **CERTAIN ILLEGAL ALIENS.**

15 (a) REIMBURSEMENT.—The Attorney General shall,
16 subject to the availability of appropriations, fully reim-
17 burse the States and political subdivisions of the States
18 for costs incurred by the States and political subdivisions
19 for emergency ambulance service provided to any alien
20 who—

21 (1) entered the United States without inspec-
22 tion or at any time or place other than as designated
23 by the Attorney General;

1 (2) is under the custody of a State or a political
2 subdivision of a State as a result of transfer or other
3 action by Federal authorities; and

4 (3) is being treated for an injury suffered while
5 crossing the international border between the United
6 States and Mexico or between the United States and
7 Canada.

8 (b) STATUTORY CONSTRUCTION.—Nothing in this
9 section requires that the alien be arrested by Federal au-
10 thorities before entering into the custody of the State or
11 political subdivision.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—

13 (1) AUTHORIZATION OF APPROPRIATIONS.—
14 There are authorized to be appropriated to the At-
15 torney General such sums as may be necessary to
16 carry out the provisions of this section.

17 (2) STATUTORY CONSTRUCTION.—Nothing in
18 this Act may be construed to prevent the Attorney
19 General from seeking reimbursement from an alien
20 described in subsection (a) for the costs of the emer-
21 gency medical services provided to the alien.

22 **SEC. 212. TREATMENT OF EXPENSES SUBJECT TO EMER-**
23 **GENCY MEDICAL SERVICES EXCEPTION.**

24 (a) IN GENERAL.—Subject to such amounts as are
25 provided in advance in appropriation Acts, each State or

1 local government that provides emergency medical services
2 through a public hospital, other public facility, or other
3 facility (including a hospital that is eligible for an addi-
4 tional payment adjustment under section 1886(d)(5)(F)
5 or section 1923 of the Social Security Act), or through
6 contract with another hospital or facility, to an individual
7 who is an alien not lawfully present in the United States,
8 is entitled to receive payment from the Federal Govern-
9 ment for its costs of providing such services, but only to
10 the extent that the costs of the State or local government
11 are not fully reimbursed through any other Federal pro-
12 gram and cannot be recovered from the alien or other en-
13 tity.

14 (b) CONFIRMATION OF IMMIGRATION STATUS.—No
15 payment shall be made under this section with respect to
16 services furnished to aliens described in subsection (a) un-
17 less the State or local government establishes that it has
18 provided services to such aliens in accordance with proce-
19 dures established by the Secretary of Health and Human
20 Services, after consultation with the Attorney General and
21 State and local officials.

22 (c) ADMINISTRATION.—This section shall be adminis-
23 tered by the Attorney General, in consultation with the
24 Secretary of Health and Human Services.

1 (d) EFFECTIVE DATE.—This section shall not apply
 2 to emergency medical services furnished before October 1,
 3 1995.

4 **SEC. 213. PILOT PROGRAMS.**

5 (a) ADDITIONAL COMMUTER BORDER CROSSING
 6 FEES PILOT PROJECTS.—In addition to the land border
 7 fee pilot projects extended by the fourth proviso under the
 8 heading “ Immigration and Naturalization Service, Sala-
 9 ries and Expenses” of Public Law 103–121, the Attorney
 10 General may establish another such pilot project on the
 11 northern land border and another such pilot project on
 12 the southern land border of the United States.

13 (b) AUTOMATED PERMIT PILOT PROJECTS.—The
 14 Attorney General and the Commissioner of Customs are
 15 authorized to conduct pilot projects to demonstrate—

16 (1) the feasibility of expanding port of entry
 17 hours at designated ports of entry on the United
 18 States-Canada border; or

19 (2) the use of designated ports of entry after
 20 working hours through the use of card reading ma-
 21 chines or other appropriate technology.

22 **Subtitle C—Effective Dates**

23 **SEC. 221. EFFECTIVE DATES.**

24 (a) IN GENERAL.—Except as provided in subsection

25 (b) or as otherwise provided in this title, this title and

1 the amendments made by this title shall take effect on
2 the date of the enactment of this Act.

3 (b) BENEFITS.—The provisions of section 201 and
4 204 shall apply to benefits and to applications for benefits
5 received on or after the date of the enactment of this Act.